The Solicitors' Journal

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CURRENT TOPICS

President of The Law Society

WE extend our hearty congratulations to Mr. HAROLD NEVIL SMART, C.M.G., O.B.E., partner in Janson, Cobb, Pearson & Co., who has been elected President of The Law Society for the coming year. From 1914 to 1920 Mr. Smart served in the North Sea Patrol and in North Russia and the Ministry of Shipping and received a Russian decoration in 1916. He was made C.M.G. in 1917 and was awarded the O.B.E in 1919.

The Annual Meeting

As was to be expected, much of the discussion at The Law Society's Annual General Meeting last Friday (a report of which will be found at p. 460) was devoted to the urgent problem of securing an increase in remuneration in non-contentious matters. It is clear that the profession has in no wise receded from the firm attitude which became evident at the Special General Meeting in January of this year, but, as Mr. ROLAND MARSHALL wisely pointed out, the next step to be taken must nevertheless be determined in the light of sound tactics. To force the issue in spite of the Lord Chancellor's request that the question be held in abeyance until later in the year would be a cardinal error, as the Council has clearly recognised, although recent events hold out little hope of a relaxation in the coming months of the policy of restricting personal incomes. Since it is The Law Society's contention that that policy has no application to gross receipts as distinct from personal incomes, any further request by the Government for postponement of the issue would create a fresh situation in which the Council, solidly backed by the profession, might have to consider its position anew.

Minimum Conveyancing Scales

LITTLE was said at the meeting on the subject of minimum scales of conveyancing charges, and it is perhaps surprising that the point of view expressed by a correspondent (p. 467, *post*) found no exponent. Briefly, our correspondent argues that professional ethics demand a discretion in the practitioner to charge what is fair in the circumstances, and that the proposal to enforce a minimum scale throughout the country should therefore be resisted. An important question of principle is here involved, and we hope that other solicitors will send us their views.

Middle Temple Hall

THE memorable words spoken by the QUEEN at the re-opening of Middle Temple Hall after its war-time ordeal must have deeply moved the judges and eminent lawyers gathered to witness this historic event: "... it was the intention to repudiate the rule of law and to replace it by a monstrous tyranny, which brought to us these wounds which we may see about us, which were so nearly mortal ... we may well marvel that this lovely hall, begun nearly 400 years ago, still stands, proud and undismayed, like a jewel in a broken setting." The damage wrought by man's savagery is depicted in photographs published in "Middle Temple Ordeal," the recently published account of war-time experiences of the Inn. From these can be imagined the immense problems of those who did the work of restoration. The broken fragments, particularly of the richly carved oak screen, have, as Her Majesty said, been "lovingly re-assembled" and the hall to-day shows "a new strength and a new beauty." It was during the reign of a former Queen Elizabeth (who was a frequent visitor to the Middle Temple) that calls to the Bar were first recorded and a succession of "sound and able lawyers" was produced. The re-affirmation of Royalty's association with the law by the Queen's visits as a Bencher to her Inn as well as by the King's gracious acceptance of the office of Treasurer of the Inner Temple is a sign of the strength of the foundation of law on which our national life is built.

Matrimonial Jurisdiction: Appeals from Justices

FROM all the omens it does not seem that any great apprehension need be felt that the law will be changed so that appeals from the justices in matters within their matrimonial jurisdiction will in future go to quarter sessions instead of to the Divisional Court. The PRESIDENT of the Probate, Divorce and Admiralty Division himself went to the House of Lords on 7th July to say, on the Second Reading of the Married Women (Maintenance) Bill, that an amendment in the law to this effect would make a radical change for the worse in the method of appeal. There was, his lordship said, no access to legal books and no means of co-ordinating decisions at quarter sessions. The average cost of appeals to a Divisional Court in Divorce was £30, and the average cost of quarter sessions appeals was £35. Thence appeals would be by way of case stated to the Divisional Court if the proposal was carried, but of recent appeals only about 15 per cent. could be dealt with properly by case stated. Of the remainder, his lordship said, 15 per cent. might be simply questions of amount and 70 per cent. were questions of mixed law and fact. Of the 70 per cent. rather more appeals

were allowed than dismissed. VISCOUNT SIMON, LORD MESTON and the MARQUESS OF READING all expressed their disapproval of the clause, but LORD CHORLEY said that one point which he understood to be made in favour of the amendment was that at quarter sessions the magistrates would see and hear witnesses. The Lord Chancellor, however, had indicated that he was "inclined to regard the clause with considerable apprehension." A fuller account of the debate appears at p. 467, *post*.

Proposed Extension of Divorce Grounds

ANOTHER projected reform in the divorce laws which has provoked keen controversy is that put forward as an amendment to the private members' Law Reform (Miscellaneous Provisions) Bill which the SPEAKER decided on 8th July was not within the scope of the Bill as contemplated on account of its controversial nature. It provided that if a husband and wife had lived apart for at least seven years and it was unlikely that cohabitation would be resumed, either party might obtain a divorce. Assuming that the hardships which this kind of proposal is designed to remedy are sufficient to justify legislative amendments, all the arguments against relaxing the divorce laws and opening the door still wider nevertheless apply in the highest degree. As "Barrister-at-Law" wrote in *The Times* of 6th July, if seven years, why not five or three years? One of the other injustices which, he wrote, would result was that it introduced divorce against the will of an innocent spouse, and deprived a wife of all benefit under the Inheritance (Family Provision) Act, 1938. On the other hand, it may well be that if the proposed amendment ever becomes part of the law the statement in the petition that there has been no collusion, supported by oath as it is, will have to be drastically revised. The general question whether family life is encouraged by stricter divorce laws or discouraged by a relaxation of those laws is one which may be left to the ecclesiastical and lay authorities who are used to discussing such matters.

The Boundary Commission

"THE Local Government Boundary Commission," wrote Professor ROBSON, Professor of Public Administration in the University of London, in *The Times* of 4th July, "has great merits as an institution. It is non-political in the party sense. It has an independent status, though subject to Ministerial regulations. Its members consist of men of outstanding ability, knowledge and experience, and it has its own staff. . . . Its procedure has been informal and cheap. It is immeasurably superior to the private Bill or the provisional order method of altering boundaries." As against this, it seems from Mr. BEVAN'S announcement in the Commons of the proposed winding up of the Boundary Commission that the Government's view is that the Commission's lack of power to vary the structure of local government or the functions of local authorities concludes the matter. It is something to know that at an unspecified future date the views of the Commission will be taken into account, but it may be thought that a commission which had so proved its worth deserves something better than immediate dissolution. There is still time to decide that it is the best body for dealing in an entirely non-political atmosphere with urgent questions of centralisation of local government and enlargement of local authority areas.

A Constitutional Principle

THE reply of Chief Justice LYON of the Seychelles Supreme Court to the criticism made in the Commons on 3rd June by Mr. REES-WILLIAMS, Under-Secretary for the Colonies, clearly sets forth the principle of the independence of the judiciary even from the slightest executive interference, on which freedom is based wherever the English common law prevails. Chief Justice Lyon said that it had recently been the duty of the Supreme Court at Seychelles to estimate the reliability and character of a witness, and the conclusions reached were entirely adverse to that witness. "In my considered opinion," he said, "the only proper method by which the findings of such a court can be reversed or criticised is by recourse to the appellate courts, in this instance to the Supreme Court of Mauritius, to which an appeal had been made and withdrawn, and then, if need be, in a suitable case to the Privy Council." He added: "Whenever even a faint shadow of executive pressure falls upon the judiciary the door is opened to tyranny. The question directly concerns not only every member of the bar and solicitor practising in the colonies and every colonial magistrate and judge, but also the public throughout the Empire."

Level of Rateability

A SLIGHT fall in the estimated average rate for all types of local authority from 17s. 10d. for 1947–48 to 17s. 6d. in the £ for 1948–49 is shown in the full analysis of rates for 1948–49 published by H.M. Stationery Office (price 1s.) for the Ministry of Health on 5th July. Barmouth Urban District Council was stated to be the most highly rated authority, its rates standing at 32s. in the £. Merthyr Tydfil, with its rates reduced from 30s. to 24s. 6d., was still the most highly rated of the county boroughs. The most highly rated authority in England was the Dawley Urban District Council, with a rate of 26s. 3d. in the £, while Poplar was the most highly rated of the London boroughs, its rates being 19s. 4d. in the £. The rates at Westminster rose last year to 13s. 6d. from 11s. in the £, and this year, at 11s. 6d. in the £, Bournemouth is the lowest rated borough in the country.

Interim Index

THE interim index which forms a supplement to this issue covers the half-year January–June, 1949, inclusive. Readers are reminded that the consolidated index to vol. 93 (to be issued in January, 1950) will supersede the present interim index, which is not therefore intended to be bound with the issues constituting vol. 93.

Recent Decisions

In *White* v. *White*, on 4th July (*The Times*, 5th July), the Court of Appeal (BUCKNILL, ASQUITH and DENNING, L.JJ.) held that if a wife deliberately behaved to her husband in a way which was not in itself quite irrational, and in circumstances which indicated that she knew what she was doing and that her conduct was wrong, and if that treatment had the natural result of injuring her husband's health, all the circumstances were present to show that she treated him with cruelty. Referring to *M'Naughten's* case (1843), 10 Cl. & F. 200, Denning, L.J., said that in his opinion insanity itself was no answer to a petition for divorce on the ground of cruelty unless the petitioner knew that the conduct was due to mental disease. He was averse to introducing the tests of the criminal law into the civil code.

In *Smith* v. *London Transport Executive*, on 6th July (*The Times*, 7th July), the Court of Appeal (the MASTER OF THE ROLLS, SOMERVELL and JENKINS, L.JJ.) held that where by reason of the use of the words "or otherwise" in s. 65 (1) of the Transport Act, 1947, the Transport Commission were empowered to operate a passenger omnibus service without a road service licence, the operation of the service by the London Transport Executive was properly delegated to them.

In *Tamlin* v. *Hannaford*, on 8th July (p. 465 of this issue), the Court of Appeal (BUCKNILL, ASQUITH and DENNING, L.JJ.) held that a sub-tenancy was protected by the Rent Restriction Acts notwithstanding that the sub-tenant's landlord was tenant of the British Transport Commission in respect of the house of which he had sub-let part to the sub-tenant, because, although the Crown was not bound by the Rent Restriction Acts, the British Transport Commission was neither the servant nor the agent of the Crown, but a public authority governed by Act of Parliament. See also p. 458, *post*.

A Conveyancer's Diary

NON-TESTAMENTARY DISPOSITION

Two recent cases afford interesting examples of attempts, one successful and one unsuccessful, to effect a disposition of property on the death of the transferor otherwise than by will. In *Young* v. *Sealey* [1949] Ch. 278, the deceased transferred several sums standing to her credit with two banks into deposit banking accounts which she opened in the joint names of herself and her nephew. One of these accounts was an ordinary deposit banking account and another an account with a savings bank, but they were all identical in the important respect that the moneys standing to the credit of the several accounts were payable, or repayable, to or to the order of the deceased and the nephew, and to the survivor of them. She also purchased some building society shares in the joint names of herself and her nephew.

The evidence showed that the deceased wished to save death duties and adopted this form of disposition for that purpose, as well as out of a desire to keep her financial affairs secret from her advisers. The nephew never operated any of the banking accounts during the deceased's life, but she drew freely on one at least of these accounts and made payments into it, and also received the income of the building society shares standing in the joint names of herself and her nephew; this she was enabled to do without reference to her nephew as she had caused her name to be entered as first of the joint investors in respect of the shares. It was also clear that she intended the moneys on the joint accounts and the shares to belong to the nephew after her death.

On her death the question arose whether the nephew was entitled to the beneficial interest in the balances then standing in the banking accounts and in the building society shares, or whether he held them on a resulting trust in favour of the deceased's personal representatives. Romer, J., decided that the nephew was beneficially entitled, and at first sight it may seem that this result is so obvious that there would hardly be room for dispute on the point. But in fact the question is not quite so easy to solve as all that.

Most of the conceptions that we entertain about joint ownership are derived from the law of real property. A joint banking account does not readily conform with all these conceptions, and indeed is something of a hybrid. The important difference in this respect is that in the case of real property, once a conveyance has been taken in the names of joint owners, it is impossible (except, of course, in cases of fraud) for one of the joint owners to deal with the legal estate without the concurrence of the other. This is also the case with certain types of personal property, e.g., shares in a company incorporated under the Companies Acts. There is, therefore, a certain logic in the accrual to the survivor of joint tenants of realty and such personal property as is akin to realty in this respect of the absolute title, legal and beneficial, in the property in question; during the lifetime of his co-owner the survivor had the power to protect his own interest by refusing to accede to any dealing with the property which would destroy or adversely affect that interest, and on the death of the co-owner the interest accrues wholly to the survivor. But joint accountants of a banking account are at liberty, as between themselves and their bankers, to operate the account either jointly or (as is customary) severally, so that one joint accountant can at any time withdraw the balance standing to the credit of the account and so destroy the property held in joint ownership.

Somewhat similar circumstances to those in the present case were considered in *Re Harrison* (1920), 90 L.J. Ch. 186, where the decision went in favour of the survivor, but a point was taken in the present case which had not, apparently, been raised specifically in any of the English cases on the subject. The argument was that as the deceased had retained control over the joint banking accounts during her lifetime, the subject-matter of her bounty to her nephew was limited to the balances that might be standing to the credit of these accounts at her death, and such a gift was void under the Wills Act, 1837, unless made by will. For the purpose of this argument such earlier decisions as *Beecher* v. *Major* (1865), 2 Dr. & Sm. 431, were not quite in point; in that case the transfer of stock, subject to the retention of control and the continued receipt of the income by the transferor during her life, but with the intention of ultimately benefiting the transferee, was held to be equivalent to a declaration of trust in the transferee's favour with the reservation of a power of revocation. It is true that in the circumstances of that case the transferor could have sold the stock during her lifetime and so destroyed the subject-matter of her gift; but there was no evidence that she ever had such an intention, whereas in *Young* v. *Sealey* it was clear that the deceased dealt with the balances in the banking accounts as her own during her life. But it appeared from *Marshal* v. *Cruttwell* (1875), L.R. 20 Eq. 328, that it was the practice of the courts to recognise the title of the survivor of several persons jointly entitled to a banking account to the credit balance of such an account on the death of the other joint accountant, and Romer, J., felt bound to follow this apparent line of decision in preference to his own inclinations.

The decision is one of some importance since a joint banking account in the names of husband and wife is a very common arrangement, and it was probably the prevalence of such arrangements which the learned judge had in mind when he referred to the disturbing effect which a decision the other way might have on titles already acquired. But as this case, as well as the decisions both of English and other courts considered there, clearly indicates, the title of the survivor in circumstances of this kind can always be defeated by evidence of an intention on the part of the deceased co-owner not to benefit the survivor. The question is always one of intention, whether expressed, as in this case, or inferred as in *Re Harrison*, *supra*.

In *Re Greene* [1949] Ch. 353, the question was the destination of certain shares held by the deceased in a company of which he had been a director, and the articles of association of which provided that upon the death of a director leaving a widow him surviving his holding of shares should, notwithstanding any direction made by the director during his lifetime as to their disposition, be deemed to have passed upon the death to his widow. On a claim by the widow of the deceased director, who died intestate, to his holding of shares, the first question decided was to the effect that the article in question was invalid as being contrary to s. 63 of the Companies Act, 1929 (now s. 75 of the Act of 1948), which provides that a transfer of shares in a company can only be registered if a proper instrument of transfer has been delivered to the company; the widow had been registered as owner of the shares as the result of a resolution of the board, and not on the delivery of a proper transfer, and the registration was consequently defective. But that was not the end of the matter, for the widow also claimed that she held the shares under an imperfect gift or trust, and if the former that the gift had been perfected by the widow obtaining the legal title to the shares on taking out letters of administration to her husband's estate, on the principle of *Strong* v. *Bird* (1874), L.R. 18 Eq. 315. This claim was refused on the ground that the deceased had retained control over the shares in his life. "There was [in the learned judge's judgment] no gift at all here. The intestate remained throughout his life free to deal with the shares . . ." And the argument for some sort of a trust in favour of the widow was disposed of in the same way. In view of *Young* v. *Sealey*, *supra*, the suggestion that retention of control is wholly incompatible with an ultimate gift is perhaps too wide, and to it there may be added a rider that the device of a transfer into the joint names of donor and alternate donor, coupled with an intention to benefit the donee at death, will pass the property if that intention is clear, even if the donor retains control of the subject-matter of the gift during his or her life. "A B C"

Landlord and Tenant Notebook

FORFEITURE FOR BREACH OF POSITIVE COVENANT

Creery v. *Summersell* (1949), 93 SOL. J. 357, is one of those cases which make a special appeal to examiners, at all events to those who like setting questions covering a number of different, if connected, points. The construction of covenants, the requisites of waiver, and the principles of relief against forfeiture were some of the matters that came under review and with which I propose to deal to-day; the position of sub-tenants seeking vesting orders was another matter, which will be left to a future occasion.

The plaintiff landlord had let a suite of offices or rooms to the first defendant, the lease including two tenant's covenants as follows: (*a*) to use the premises as offices in connection with his business of a surveyor and valuer or for residence, and (*b*) not to assign or underlet without licence; and the usual forfeiture clause. The tenant, having unsuccessfully tried to sub-let the premises to another surveyor, sub-let them to the second defendants, Messrs. Flowerdew and Co., Ltd., the law agents, without obtaining the necessary consent. After this had come to the plaintiff's knowledge, a demand for rent was sent by someone in his employ to the first defendant and payment made but returned.

There could be no doubt but that the covenant restricting alienation had been broken, but, presumably, in view of allegation of waiver and an eventual counter-claim for relief, Harman, J., examined the covenant to use the premises as offices, etc., or for residence. This, the learned judge held, imposed a positive obligation.

A covenant to carry on a particular business *or* reside on premises must be a rare phenomenon. Covenants to do both occasionally figure in farm and hotel and public-house leases; indeed, in the last-mentioned cases such a covenant has been held to enjoy the status of a "usual covenant" (*Re Lander and Bayley's Contract* [1892] 3 Ch. 41).

Such covenants run with the land (*Tatem* v. *Chaplin* (1793), 2 Hy. Bl. 133), but one of the questions raised in the recent action may well have been what was the point of qualifying the covenant against alienation as regards sub-letting as well as assigning; any sub-demise would involve breach of the other covenant. However, it cannot be said that either side would benefit much, in the circumstances of the case, by making that point; both covenants had been broken, and the first line of defence was that the breaches had been waived by acceptance of rent.

The position with regard to the effect of demand and acceptance of rent after cause of forfeiture, but before unequivocal election, is not all too clear. In *Doe d. Nash* v. *Birch* (1836), 1 M. & W. 402, a demand by the landlord's son, who was attending to the matter only because of the father's illness, was held not to constitute waiver; but it was shown that the father was himself ignorant of the cause of forfeiture. It was suggested that this decision warranted the proposition that authority to demand and receive rent would not imply authority to waive forfeiture; but *Doe d. Thompson* v. *Davis* (1847), 10 L.T. (o.s.) 108, decided that general authority to receive rent, coupled with knowledge on the part of the principal, would evidence waiver. Then in *Croft* v. *Lumley* (1858), 6 H.L. Cas. 672, the substantial issues were whether an agreement to let for a year *in futuro* infringed a covenant not to let for more than a year, and whether a covenant against encumbrance had been infringed by granting certain warrants of attorney. These were decided in the defendant's favour, but the judges' task included that of dealing with a question of alleged waiver by acceptance of rent. It appeared that there had been a great deal of correspondence between the parties' agents or attorneys, the defendant's agent being anxious to pay rent unconditionally, the plaintiff's attorney finally accepting but saying he took it as compensation for occupation and not as rent, without waiving but expressly reserving, etc. Also, at that time some of the alleged breaches (the warrants of attorney ones) were not known to the agent or the landlord. Channell, B., observed bluntly that the all-important matter was not what the plaintiff's attorney said, but what he did. Most of the learned baron's colleagues were content to apply the rule by which the payer has the right to appropriate the payment and thus determine its character. But Bramwell, B., was in analytical mood, and pointed out that the question, described as one of waiver, was essentially one of election. There were really two questions: Was there an act of waiver, and, if so, did it operate in respect of breaches not known to the plaintiff or his agents at the time as well as in respect of breaches known? A distinction should be drawn, was the answer given; for in deciding whether an election had been made, knowledge of the opportunity to elect was a vital consideration. A landlord could not, by accepting a payment, waive a breach of which he was ignorant. In the learned baron's opinion, only such breaches as were known were waived.

It was on the strength of this *dictum* that Harman, J., decided the waiver point in favour of the plaintiff in *Creery* v. *Summersell*, but, if Baron Bramwell's observations had that status, one must agree that his analysis was a searching one. It is of interest that he prefaced his other remarks with one to the effect that waiver of forfeiture, though sufficiently correct for most purposes, was not a strictly accurate expression. When discussing *Clarke* v. *Grant* (1949), 93 SOL. J. 249 (C.A.), in our issue of 30th April (p. 284, *ante*), I recalled a very similar description of the expression "waiver of a notice to quit" given by Lush, J., in *Davies* v. *Bristow*; *Penrhos College* v. *Butler* [1920] 3 K.B. 428. In the recent case, it may be remembered, a landlord's agent received rent after a notice to quit had been given, believing it was for the last period of the tenancy; in fact, rent had been paid for that last period. There was, apparently, no express appropriation by the tenant who, however, set up that the notice to quit had been "waived." Allowing the appeal against the judgment of the county court judge who had upheld the tenant's contention, the Court of Appeal said, *inter alia*, that the judge in question had fallen into the error of confusing an acceptance of rent after a notice of forfeiture with acceptance of rent after the expiration of a notice to quit. One may perhaps wonder, in view of *Creery* v. *Summersell* and the importance attached to Bramwell, B.'s *dictum* in *Croft* v. *Lumley*, whether this part of the judgment in *Clarke* v. *Grant*, if at all necessary, was wholly sound. For it would seem that in both cases the decisive factor is the state of mind of the recipient of the money, knowledge, actual or imputed, being one of the elements.

Relief is apt to be a difficult question, judges often reminding us that no two cases are alike. But the broad principles have been stated by Cozens-Hardy, M.R., in *Rose* v. *Spicer* [1911] 2 K.B. 234 (C.A.): remedying of breach; undertaking to observe the covenant in future if it be a negative one, make good damage if not negative, etc. This authority appears not to have been cited by Harman, J., in *Creery* v. *Summersell*; the learned judge referred to *Barrow* v. *Isaacs and Sons* [1891] 1 Q.B. 417 (C.A.), and to *Matthews* v. *Smallwood* [1910] 1 Ch. 777, decisions which dealt with cases of underletting in breach of covenant and would thus be in point when the position of the under-tenants, which I am to discuss on a future occasion, came to be considered. But as regards the mesne tenant, the lease, it was held, showed clearly that it was essential for the lessor to retain control of the premises, and for this reason relief was refused.

STATUS OF NATIONALISED RESIDENTIAL PROPERTY

THE reversal by the Court of Appeal of the county court decision in *Tamlin* v. *Hannaford*, reported at p. **465** of this issue, has considerably clarified the legal position of a number of tenants and sub-tenants of dwelling-houses which have become vested in statutory undertakings. The "Notebook"

referred to this question on some three occasions last year; on 21st August (92 SOL. J. 467), when dealing with *London Territorial and Auxiliary Forces Association* v. *Nichols* (1948), 92 SOL. J. 455 (C.A.), litigation of this kind was predicted; on 6th November (92 SOL. J. 631), the county court judgment now reversed was discussed; on 4th December (92 SOL. J. 685) it was pointed out that if that judgment were sound, courts would have to give effect to it whether the statutory bodies invoked their privileges or not.

The short facts of *Tamlin* v. *Hannaford* were that a tenant of a dwelling-house vested in the British Transport Commission by the Transport Act, 1947, gave a *prima facie* protected sub-tenant of part of that house notice to quit and brought proceedings for possession. He relied on the joint effect of the *in rem* operation of the Rent Acts (illustrated, in this connection, by *Clark* v. *Downes* (1931), 145 L.T. 20, and *Rudler* v. *Franks* [1947] K.B. 530) and the rule that the Crown is not bound by any statute which does not specifically provide that it shall be. The issue turned on the relationship between the Crown and the Commission, and with some diffidence the learned county court judge came to the conclusion that the latter was, if not an agent or servant of, an emanation from, the former and that the premises were therefore decontrolled. The view taken by the Court of Appeal, the judgment of which was delivered by Denning, L.J., was that while the new statutory corporation had no shareholders it did own property, and while the protection of all concerned—taxpayer, user and beneficiary—was entrusted to the Minister of Transport, it was not his agent; and an emanation which was not the servant or agent acquired no privileges (the use of the expression "emanation," the earliest instance being in *Gilbert* v. *Trinity House* (1886), 17 Q.B.D. 795, was rather deprecated).

One passage in the judgment should be carefully noted: the learned lord justice said that there was ample authority for saying that such control as the Minister exercised was *insufficient* for the purpose (that of making the corporation a servant or agent of the Crown). Thus, the question is essentially one of degree; and it will not necessarily always be possible to say, when dealing with a statutory corporation dwelling-house matter, "this is clearly a *London Territorial, etc., Association* v. *Nichols* case" or "obviously, covered by *Tamlin* v. *Hannaford*" just like that.

R. B.

HERE AND THERE

NORTH EASTERN ASSIZES

As I write, reports come from Leeds that a race with time is going on to complete the business of the Assizes there before the Long Vacation, and that the judicial team headed by Cassels, J., are working overtime to hear and determine the causes and deliver the gaol, without impinging on the appointed holidays of the members of the legal profession. Very different was the state of things at York, the previous town on the North Eastern Circuit, where the judges found time hanging rather heavily on their hands. At Durham, the town before York, there was leisure for an interlude blending scholarship with athletics when the head boy of the school there was inspired to indite a Latin epistle addressed to Cassels, J., conveying a challenge to the practitioners engaged in the business of the Assize to meet his fellows at cricket. It is credibly reported that the learned judge adopted the same language to compose a favourable reply. The sequel—a half holiday for all concerned and a match drawn but leaning to the disadvantage of the lawyers. The boys of Winchester, Shrewsbury and Bedford have long been aware of the practical advantages to be derived from a classical education in Assize time, but the cricket challenge seems to be a new variation on the theme. So was it a variation on an old theme last year when the High Sheriff, a gentleman of credit and renown in the business world of Newcastle, turned his thoughts back to the past glories of javelin men and horse-drawn coaches. A coach indeed and four fine horses he did produce in honour of the judges, though not of the state coach variety associated with public ceremonial, but instead a cheerful stage coach affair of the sort that puts us in mind of Mr. Pickwick. It is said that Stable, J., at any rate was pleased and went round to talk to the horses.

DURHAM OR STOCKTON?

BUT it has not been all sweetness and light in Durham of late, and rumbles of judicial discontent have been rolling through the vaulted Norman passages of the hill-top fortification where the judges are lodged, the

"Mixed and massive pile
Half church to God half castle 'gainst the Scot."

The late Sir Frank MacKinnon, whose book "On Circuit" was recently described by one of the Lords Justices as an "A.A. guide to judges' lodgings," loved staying in Durham Castle, and thus described it: "Within there is not only mediæval splendour but such modern comfort as is possible with walls of immense thickness; Norman arcades and a perfect bathroom; the great staircase of black oak and electric reading-lamps from wall plugs. As senior judge I had the suite of rooms at the eastern end, by the great staircase, a fine parlour and bedroom and a bathroom lately made in an embrasure of the enormous Norman wall." That was in 1925, but, a quarter of a century on, the judges seem to be made of more tender stuff and yearn for something cosy. Central heating, electricity and hot water solace them not. Georgian four-poster beds, though modernised with spring mattresses, bring not enough repose to frames wearied with the jangles of the courts. Echoes of their discontent have pierced the massive walls—differences over living space between Oliver, J., and the Dons of Durham University, which occupies the Castle, and judges' clerks sent forth to find what shelter they may in the town. It is said that there have even been suggestions that the Assizes be moved to Stockton, as part of a general circuit reorganisation which would bring the judges to Hull and Sheffield too. Whether life would be more cosy for them at Stockton is perhaps a moot point. Anyhow, they are in no danger of being lodged in Stockton Castle. It was dismantled in 1652.

MORE REMEMBERED

SIR THOMAS MORE—Saint Thomas More—was executed on 6th July, 1535. Last Sunday his death was commemorated in a unique manner in Lincoln's Inn, of which he was a member. In the Old Hall, which he himself knew, for it was built between 1489 and 1491, hard by the fine gateway to Chancery Lane, through which he certainly passed, for it dates from 1518, members of the Thomas More Society gathered to assist at a Mass celebrated in his honour. In the restored hall now stripped of its former eighteenth century accretions (save for Hogarth's enormous painting of St. Paul before Felix) everything recalls More's own time, and the priest in red vestments at the table altar on the dais, with the surpliced choir beside him, seemed wholly in place. And outside, all about the hall, was that particular hush which nowhere in London but in the Inns of Court, wraps the squares and gardens when the week of business has ebbed away from them.

RICHARD ROE.

OBITUARY

MR. C. P. CASS

Mr. Charles Parkinson Cass, retired solicitor, of Keighley, died on 5th July, aged 71. He was admitted in 1901.

MR. P. R. CHAUNDLER

Mr. Philip Robert Chaundler, solicitor, of Biggleswade, died on 3rd July, aged 60. Mr. Chaundler was Clerk to Biggleswade Urban and Rural Councils and to Biggleswade Water Board. He was admitted in 1919.

MR. C. W. CROSS

Mr. Cecil Woodrow Cross, O.B.E., a partner in the firm of Beckingsales & Naylor, City solicitors, died on 4th July. He was admitted in 1899.

MR. F. J. THOMSON

Mr. Frederic J. Thomson, procurator fiscal in the Burgh and J.P. Courts and senior partner in the firm of David Harper and Thomson, solicitors, of Largs and Glasgow, died on 17th June, aged 54.

THE LAW SOCIETY

ANNUAL GENERAL MEETING

THE annual general meeting of The Law Society was held in the Society's Hall on Friday, 8th July, 1949, the Chairman being the retiring President, Sir WILLIAM ALAN GILLETT, T.D., D.L.

The notice convening the meeting was taken as read, and the minutes of the meetings held on 2nd July, 1948, and 28th January, 1949, were approved and signed. The election was then confirmed for the ensuing year of Mr. Harold Nevil Smart, C.M.G., O.B.E., J.P., as President, and of Mr. Leonard Stanistreet Holmes, LL.M., J.P., as Vice-President.

Mr. SMART thanked the meeting for the honour conferred on him and said that he had a difficult task to follow Sir Alan, who had put in such an enormous amount of work in committee and otherwise and had set a very high example. He would do his level best to keep somewhere near it.

Mr. HOLMES said he could only echo what Mr. Smart had said. It was always the ambition not only of provincial members but of all members of the Council to attain the high office of Vice-President and President. It was a great pleasure to him to think that the members of the Society had sufficient confidence in him to have elected him to the office of Vice-President, and he could assure Mr. Smart that any assistance he could give him during his year of office he would be glad to give.

The CHAIRMAN then put to the meeting the list of qualified members of the Society nominated for election as Members of the Council and stated that the nomination of Mr. Philip Brian Martineau, O.B.E., had been withdrawn. The following members were then elected, *viz.*, Mr. Dingwall Latham Bateson, C.B.E., M.C., Sir (William) Bernard Blatch, M.B.E., B.A., Mr. Geoffrey Abdy Collins, B.A., LL.B., Mr. Charles Leonard Fawcett, B.A., Sir Douglas (Thornbury) Garrett, B.A., Sir (William) Alan Gillett, T.D., D.L., Mr. Bertram Ernest Conington Ogle, M.A., LL.B., Mr. Robert Frederick Payne, Sir Anthony (Frederick Ingham) Pickford, B.A., Mr. John Renwick, M.A., LL.B., Mr. Harold Nevil Smart, C.M.G., O.B.E., J.P., Mr. William Joseph Taylor, and Mr. Evan Bevan Thomas.

Mr. Richard Ernest Yeabsley, C.B.E., F.C.A., F.S.A.A., Mr. William Francis Spencer Hawkins, and Mr. Reginald Egerton Johnson were duly elected as auditors of the Society.

The accounts as printed in the circulated Annual Report were adopted. The retiring PRESIDENT's address* was agreed to be taken as read, but he made the following supplementary remarks :—

After referring to the fact that before the meeting took place the Archbishop of Canterbury had dedicated the War Memorial in the main hall, Sir Alan said that he wished the meeting to be informed of one or two matters that had occurred since his address was written. Unfortunately, the Book of Remembrance had not been completed in time for the dedication ceremony, but as soon as it was completed it would be on view in the glass case provided and the intention was that a page of the book should be turned each day.

Dealing with the work of the Society, he said that whereas in his printed address he merely stated that the Legal Aid and Advice Bill had received a warm welcome from all parties in the House of Commons he could now say that in its passage throughout all stages in that House it was amended in certain respects, and indeed improved. Furthermore, no amendments were made of which either the Council of The Law Society or the General Council of the Bar disapproved.

On 27th June the Bill was read a Second Time in the House of Lords, and he thought he might say again that it had a cordial reception in that House also. They hoped now that it might go through its remaining stages and have become part of the statute law of this country before the Long Vacation.

In the meantime, the Society had received Treasury approval to advertise certain of the senior posts under the Legal Aid and Advice Scheme, and also to invite applications for posts as area secretaries or as supervising solicitors in each of the twelve areas allocated under the Scheme, and these advertisements had appeared that week in the legal journals and the daily press. Later on, probably in the autumn, other posts of local secretaries and legal advisers would be similarly advertised and the recruitment of unqualified staff would also be proceeded with in due course.

JUSTICES OF THE PEACE BILL

With reference to the Justices of the Peace Bill recently introduced in the House of Lords, and to which he would have referred in his printed address had the Bill then been published, there were three matters which the Council had been particularly anxious should be included. The first was that solicitors should be eligible for appointment as stipendiary magistrates. The second, that solicitor-justices should only be debarred from practising before justices on the same Commission as themselves. And the third, that in future all justices' clerks should be either solicitors or barristers. The Council made representations on the first two points to the Royal Commission on Justices of the Peace under the chairmanship of the late Lord du Parcq ; on the third point, to the Departmental Committee on Justices' Clerks under the chairmanship of Lord Roche.

The first two points had been met by the Bill ; the third, however, had not been met. Clause 15 of the Bill, he regretted to state, virtually ignored the unanimous recommendation of the Roche Committee, who said :—

> " Our first recommendation must be the legal qualification of the clerk, and we have come to the conclusion, after careful deliberation, that nothing but a professional qualification will fully meet the circumstances. A clerkship to justices is a public office. It has become an accepted principle in the public service that appointments requiring specialised knowledge—whether it be in engineering, medicine, architecture, or law—should be filled by persons who have the appropriate professional qualifications which ensures not only a standard of competence but also the status and discipline of an organised body. We do not think the clerkship to justices should form an exception to this principle, as we may add that justices, who must rely to a large extent on the advice of their clerk in matters of law and procedure, ought to receive that advice from someone who is professionally qualified to give it."

Lord Roche's Committee included representative magistrates, civil servants, justices' clerks, and others, and heard much evidence, and the Council could not understand how or why the recommendation of this careful and well-qualified Committee had been ignored.

The work of the justices' clerk was essentially appropriate to a solicitor, and the Council regarded it as of prime importance that such clerks should have this professional qualification. One of their main functions was to advise magistrates on points of law and admissibility of evidence, and a person with no professional qualification did not fill the bill. The Council for their part were taking active steps to see that cl. 15 of the Bill is amended in its passage through Parliament ; and he asked any who were able to gain the ears of members of the Legislature, whether in the House of Lords or in the Commons, to raise the matter forthwith.

Last week they received an invitation from the Committee on Taxation of Trading Profits to tender evidence before that Committee. This was a difficult and technical subject, and the Special Committee of the Council which would be considering this matter would welcome the views of members of the profession on the subject, and the Secretary would be glad to hear from anyone interested as soon as possible.

Before proceeding with the more formal business of the meeting, the CHAIRMAN said that he desired to associate himself whole-heartedly with the remarks made by Mr. Henry B. Lawson (Chairman of the Finance Committee) in his printed and circulated address in relation to the staff of the Society. At the general meeting he said that his indebtedness to them was accumulating at compound interest ; that was so to such an extent as entirely to upset his balance sheet. He could imagine no year in which a President had to make greater or more incessant demands upon their time and energy. He had never asked in vain, but had received every possible assistance from them.

He desired to record his special indebtedness to Mr. Lund for his able help in ways too numerous to detail, especially in regard to International Conferences referred to in the Address. He also wished to express his deep thanks and appreciation to Mr. Nevil Smart, and to Mr. Cruickshank, Miss Reed and Miss Spicer.

In handing the charge of the Presidency over he did so in the happy knowledge that he could not place it in the hands of a man more devoted to the service of the Society than Mr. Nevil Smart, to whom he wished good luck. He was also glad to think that Mr. Smart would also have the strong support of Mr. Leonard Holmes as his Vice-President.

In our time we had many of us been called upon to assume positions of leadership, and when that event had happened to us

* The President's address is printed at p. 446, *ante*.

we found ourselves in such a position with an accompanying anxiety as to whether we should make that leadership effective. Assuming that position in which he had been placed by the Society last year that same anxiety came to him. He could only tell those present that it was due to the extreme efficiency of his colleagues and the help that they had given him that any success was due during his year of Presidency. The work they did was enormous and was only equalled by the standard which they set themselves. He had only to call for help from one man for one thing and from another for something else, and not only was it given but on a scale which commanded his admiration. He thought it ought to be said, and that he was the man to say it—because they could not do so themselves—that the Society had put in command here a body of men unequalled in any part of the country for leadership. He thanked them from his heart for their magnificent service and for their support of him, and he took off his hat to them and to the Society and its far-flung electorate for having put them there.

Before formally moving the adoption of the Annual Report, the Chairman invited questions.

Mr. R. POLLOCK asked whether the Society could put members inexperienced in divorce practice and procedure in touch with some experienced in such work, or form panels of such persons whose knowledge and skill in that direction might prove invaluable if made easy of access to other practitioners.

Mr. LUND said he thought that there must be few members unaware that the staff, who were there for the benefit of members, were always ready to deal with any difficult point which a member might have occasion to raise. They would do their level best to give an answer, to look the matter up and to make out a good case; or, failing their being able to give a satisfactory reply, would advise and recommend consultation with counsel.

REMUNERATION IN NON-CONTENTIOUS MATTERS

Mr. L. C. BULLOCK said that he made no apology for raising once again the subject of remuneration in non-contentious matters, more especially as the Chairman and the Scale Committee had expended so much time and energy in an endeavour to ensure justice being done. To them, and to Mr. Lund, he tendered the grateful thanks of the whole profession. But, as they gathered from the President's address, the battle was not yet won. He was not unmindful of the economic position of the country or of the recent remarks made by the Chancellor of the Exchequer. As was made clear in the Annual Report, they were not seeking to increase their incomes by large sums, but merely to receive adequate gross remuneration which would enable them to look after their staff, pay them an adequate salary, and to treat them in as good a way as they were treated by better-paid professions and by commercial concerns.

What was the meaning of the Lord Chancellor's latest suggestion that he would consider the whole question later in the year, by which time he hoped that circumstances would be more favourable to The Law Society's claim? He, personally, had been pressing this subject for the last six years. In 1943 he made suggestions showing the inadequacy of their remuneration as compared with other professions—and particularly with Scottish solicitors, who were remunerated on a more generous basis. He had continued his efforts during the two years in which he was Master of the City Solicitors' Company and had lost no opportunity of raising the question ever since; in fact, the item was seldom missing from the agendas of its meetings because the members of the Court of the Company regarded the question as a vital one in the interests of the profession.

When he addressed the special general meeting of The Law Society last January he thought those present expressed their agreement with his views in no uncertain terms, and he hoped they would do so as emphatically to-day. In The Law Society's Report of April, 1948, it was pointed out that the increase over the scale of charges prevailing sixty-five years ago, viz., at the date of the Solicitors' Remuneration Order, 1883, was the lowest increase of any profession, and that the financial position of the professions generally had seriously declined in comparison with that of other sections of the community.

Although there was ample justification for an all-round increase The Law Society had been extremely moderate, and it must be taken that no application had been made for increase of scale on charges from vendors', purchasers', mortgagors' or mortgagees' solicitors for deducing and investigating title, etc., except in registered land, on transactions up to £10,000. It was common knowledge that in really big transactions, some of which involved £500,000 or more, it was absolutely necessary to strike a bargain or alternatively to refuse the work. Imagine a surveyor turning away a transaction of £500,000 if his fee was £7,557, or a Scottish solicitor refusing a similar transaction when his scale fee had been fixed in the region of £2,233! If their own proposals were adopted, they would be entitled to charge on transactions of £500,000 approximately the same as the scale charge to which Scottish solicitors were entitled. That fee would be less than one-third of the fee payable to a surveyor in England on a similar transaction. Their present scale charge on a transaction, whether it were £500,000 or a greater sum, was £295 if the land was not on the register, or £122 10s. if it was on the register. Giving evidence in June, 1921, on the subject of solicitors' remuneration, the late Sir Edmund Cooke said that the Council of The Law Society had never appreciated the necessity for increasing the limit in respect of transactions in excess of £100,000, but he thought they were of the opinion that it should be remedied. That was twenty-eight years ago, and during that period the tendency had been for larger transactions to take place owing to the erection of large blocks of buildings and offices. On such a purchase the property was frequently subject to a very large number of under-leases and in such a case a solicitor might not only find himself without remuneration but because of the numerous disbursements might even be out of pocket.

He did not want it to be suggested that he was dealing only with large transactions and the scale fees applicable to them—that was not the case.

He would also particularly like to refer to the even greater inadequacy in the charge in connection with compulsory sales, where the solicitor was entitled to charge scale fee on registered land but not anything in the case of unregistered land for work done before the contract was entered into . . . merely Scale II charges for deducing title, perusing conveyance and completion.

These inadequacies made it quite impossible for a young practitioner to set aside capital to pay out retiring partners or to provide the necessary working capital. It was difficult for them to keep up the social status expected of them, and quite impossible to provide a proper pension scheme for their staff, such as banks, insurance companies and commercial undertakings did.

They must all be asking themselves the question as to how long they were going to be fobbed off with excuses for which there appeared to be no justification. They all knew that the Council of The Law Society was with them in their claim. Surely the time was long overdue when their just and reasonable claims should be recognised by the powers that be. Once again he wished to emphasise his original contention that it was absolutely necessary that the Council of The Law Society should become masters in their own house, which it appeared they were not at present so far as increase of remuneration was concerned—fair and just remuneration for the members of their profession.

He thanked the retiring President for all that he had done for them in his strenuous year of office, and at the same time extended a hearty welcome to the new President. Mr. Smart had just completed a year of office as Master of the Worshipful Company of City Solicitors, and therefore he knew that he was wholeheartedly with them on the questions now under discussion. He hoped that several other members would speak and indicate to the Council that they were all of one mind on this subject and that it was important that fair treatment should be meted out to the profession.

Mr. CLAUDE HORNBY said that he would like to support what Mr. Bullock had said. One expression he used struck him very much: he referred to the fact that it was quite impossible for solicitors to conduct these very large transactions for the ridiculous fees they were allowed under the scale; they had either got to strike a bargain or refuse the work. If a surgeon demanded a fee of 150 guineas one had no option but to pay it. If a solicitor agreed with a client to do a certain amount of work for 150 guineas and both signed a document to that effect, he supposed they all knew that if it turned out afterwards that the costs came to 250 guineas they would have to whistle for the odd 100; but if a client saw the same man and told him he had been overcharged in paying 150 guineas, he could go to the taxing-master who could strike out whatever he thought proper from the bill which had to be delivered. If that was right and equitable, then he did not think that equity existed—but he thought he was right in saying that that was the law so far as solicitors were concerned. If that was so, then he thought the position should be altered—by Act of Parliament even, if that were the necessary or proper procedure to enable them, as Mr. Bullock had said, "to be masters in their own house" and to decide what costs they should be paid.

Accountants, stockbrokers, surveyors, doctors and probably many others—not one of these professions was directed by an

august tribunal similar to that which dealt with their affairs; and he thought they were not sufficiently familiar with the costs and expenses to which the profession was subjected, for instance the amount they had to pay a typist to ensure that she did not walk out and secure a better job! He hoped the new President would do something about this during his year of office.

He was very grateful to Mr. Bullock for bringing his very great experience and his statistical knowledge in those matters for their benefit and advantage.

Mr. R. T. OUTEN said that he would have hesitated to address the meeting but for the direct invitation of Mr. Bullock, who had referred to the campaign conducted under his leadership at the City Solicitors' Company meetings in relation to this particular matter of solicitors' remuneration. He would like to assure the meeting that the remarks which Mr. Bullock made did reflect quite accurately the views which the Court of that Company held and had held for a very long time. One thing which had struck him during recent discussions was that there might be some difference of view and attitude as between the country solicitor and the solicitor practising in London or in one of the great cities. He would like to make a plea for a fuller exchange of views between the country members of the Society and the city members upon this problem which affected them all in different ways. He had heard it said—but was not in a position from his own experience to know whether that was right or wrong—that in the case of the country solicitor, so far as conveyancing matters were concerned in particular, the increase in recent years in the values of real estate and the consequently increased scale fees paid on transactions in real property had more or less, and perhaps even more, compensated the country solicitor for the increased wages and overheads to which reference had been made. He was not at all sure that the country solicitor realised how far that was lamentably not the case with the solicitor who practised in London, and proportionately in the other great cities.

The increase in overhead charges in city offices was enormous. He did not propose to give lists of figures but it would be within the experience of many present that as leases had fallen in during the last two, three, four or five years it had been no uncommon thing in London for the rent not merely to be doubled—one would regard oneself as fortunate if one's rent had only doubled—but even trebled or quadrupled. Moreover, they were forced to pay high wages to typists and juniors, and as a result they were unable to remunerate sufficiently the seniors and particularly the managing clerks on an adequate and proper scale.

He therefore wished to support in every possible way the pleas made by Mr. Bullock and supported by Mr. Hornby.

Mr. ISADOR CAPLAN said that he was not unmindful of the work the Council had done during the past year; they had not failed to take any step whatever but had had to face a very difficult problem which could not be dealt with hurriedly. There was no difference of opinion between the members of the Society and the Council, but perhaps there was some difference as to the speed at which it could be achieved and the means whereby it could be achieved. There was a very large amount on which the members of the Society should congratulate the President and the Council and the administrative staff.

He would like in the first place to single out the international problems which the Society had tackled during the past ten years. They deserved credit for having got away from the parochial attitude. They had looked outside this country to establish contact with lawyers throughout the world, and he hoped they would continue to do so. As one of the younger members who attended the recent Anglo-American Conference in Paris, he would like to put on record the value of the real work of building up international friendship on the basis of personal contact. People in one country had to get to know those in other countries, and he thought that in this respect the Council were doing valuable work in which the Society was fortunate.

Similarly with regard to the provincial gatherings also. The Brighton meeting was a great success and he had no doubt that the Blackpool meeting would be too. He could assure them that they would all get a "reet good welcome."

He was interested in recent clever advertising by the Society and hoped that it would undertake amongst its activities an even greater volume of publication than it had in recent years now that perhaps the paper problem was not so acute.

The Council was to be congratulated on the work done towards establishing the status of solicitors. Its system of conducting examinations and issuing certificates was extremely valuable and he hoped members would encourage their managing clerks to take advantage of the facilities which would benefit them and the profession.

He would like to inquire as to the present position of the deliberations of the Constitution of the Council Committee and whether the Council could give some consideration to the formation of a London Law Society—an interim report might be of assistance.

He noticed in the annual report a reference to the minimum scale rates and he felt that a difficulty arose from the fact that there was not sufficient opportunity for the meeting together for discussions on such matters between country and London solicitors; and a similar remark might apply in regard to The Law Society's Conditions of Sale. The point was that there was no London Law Society and whereas London members used the Society's sale conditions as a whole the Provincial Societies issued their own adaptation of these. He would like the Council to consider, in conjunction with the Constitution Committee, whether it was not possible for some steps to be taken in that direction.

Mr. BARRY COHEN said that he understood that now was the time to make suggestions. In the past he had been very much encouraged by the results of the suggestions he had ventured to make—the abolition of the annual fee, the £80 stamp duty, and other reforms.

The Society had a very excellent School of Law in which they gave young men back from the Forces after arduous service an opportunity of hearing lectures and being instructed on the subject of book-keeping and trust accounts. It was very difficult for those young men who had spent years abroad in Northern Africa and other places to settle down to examinations on that subject. He suggested that the Council might, in connection with book-keeping and trust accounts, consider whether they could not institute a certificate from the School, from their lecturers, as to the proficiency of such young men so as to obviate the necessity of their sitting for an examination on that subject. Speaking from his experience of nearly sixty years as a solicitor, he ventured to suggest that it was hardly a subject for an examination in such circumstances. He therefore urged, particularly in the case of those who had served abroad, that they should be allowed to receive a certificate from the School that they had attended lectures and attained sufficient proficiency. He thought that would be a fair and wise alteration in the present system and hoped that it might be taken into consideration.

SOCIETY'S CONSTITUTION COMMITTEE

Mr. A. RAWLENCE said that he was rather disappointed not to have had by now some draft or interim report from the reform committee which was appointed twenty months ago, as without such a draft they could not very well discuss the matter at Blackpool. Could not their deliberations be expedited so that something was available before the Blackpool meeting? The Master of the City Solicitors' Company had mentioned that he would like to meet the country solicitors to talk about the conditions, and although he was only a suburban solicitor he too would like to take the opportunity of such a discussion.

As to the Retirement Benefit Scheme, he could not deal with that in the limited time available, but it was a matter the importance of which warranted adequate discussion. He could now only indicate heads and not go into detail. What were they to conclude from the observations of the Lord Chancellor? Was something really going to be done? Could not the matter be raised in Parliament with a view to securing pensions? And was it wise to link up pensions with the allied matters of capital and the provision for goodwill? He felt that as pensions were so much more important it might be better tactics to have concentrated on them.

He would like to make what might be regarded as a revolutionary suggestion, viz., the possibility of the formation by The Law Society of a friendly society of its own, somewhat on the lines of a building society, out of whose funds capital and goodwill could be financed on a suitable yearly basis at a reasonable rate of interest. Some such society had been formed for the benefit of members of the insurance profession. But, without going into further detail, perhaps something of the kind indicated might be considered.

He threw out the suggestion that they might have regular meetings throughout the winter at which these and other matters of interest to the profession might be discussed.

The CHAIRMAN said that before calling upon Mr. Lund to reply as to the Constitution Committee, he would like to say that the elected representatives had been hard at work, without interference of the Council in any shape or form, but he gathered that the Chairman of that committee was not present.

Mr. LUND said that, in the absence of the Chairman and Vice-Chairman of the Society's Constitution Committee, he was going

to remind Mr. Rawlence that it was not a Committee of the Council and it was perhaps a little unfair in general meeting to criticise the absence of a report from it. The matters referred to it required very careful consideration, but, as he happened also to be Secretary of that Committee, he could give an assurance that they had been very hard at work indeed. They had received and considered the views of ninety Law Societies on a Questionnaire which they had sent out—and it should be remembered that one of their terms of reference was that they should consult with the Provincial Law Societies and make recommendations. They had received evidence from a number of individuals, and they had taken the view that it was far better for them to take a little longer in recommending really wise revisions of the constitution rather than hurriedly to bring out a report perhaps indicating a constitution which would not be as satisfactory even as the present one. Their view was that it was better to bring forward something very carefully considered and examined which, so far as could be told, might really be hoped to be an improvement on the present one. They had every intention of producing an interim report, because the whole examination of the constitution was quite likely to take several years. It was to have been ready by now but owing to evidence that had been submitted quite recently, which had caused them considerably to change their views, they had again to consult the Provincial Societies—of which there are 108. Those, again, had to summon meetings, and it usually took three to four months to collect and collate the necessary information. That was the position.

Retirement Benefits

Sir Edwin Herbert, dealing with the questions raised on the Retirement Benefit Scheme, said Mr. Rawlence had made quite a point. He asked what had happened to their report sent to the Lord Chancellor. They had been recently told that it was being seriously and carefully examined—and that must be accepted for the present.

As to the point about taking Parliamentary action, the principles raised covered not only solicitors but other professional persons and self-employed persons. They did not think it a good form of negotiation to start a general agitation or campaign, raising general questions on the Finance Act in Parliament, until at least they had had an ample opportunity of negotiating with the Chancellor of the Exchequer and the Board of Inland Revenue. It could be taken that the Committee remained in action, and both the Accountants and themselves were quite determined not to let this matter drop. They regarded it as absolutely vital to their own and other professions. It was a matter of time and tactics as to what they did and when they did it. In the meantime they still had hopes that their original memorandum might be effective.

The next point raised by Mr. Rawlence was the desirability or otherwise of mixing up proposals with regard to the provision of pensions with questions relating to goodwill and capital. They had debated that question at great length in Committee and came to the conclusion that pensions proposals by themselves would not be an adequate solution but only a partial one. The question of capital and goodwill was weighing very heavily on many firms at the present time, and, he thought, would weigh more heavily in the future. In the circumstances disclosed to them, they felt that they would not be doing justice to the situation unless they raised both the question of provision of pensions and the urgent and difficult matter of capital and the consequential provision of goodwill. In these days no one was going to suggest that solicitors ought not to have sufficient capital in their business; nobody, he thought, ought to be prejudiced in his chance of entering the profession by lack of capital. He had not been in the past; he now was. He thought it was not a political issue but was something which ought to be dealt with on merits entirely.

The last point raised was whether The Law Society, or some body sponsored by it, might not set up a corporation or body on friendly society lines to finance the provision of capital. They did not exclude that possibility at all, but until they had got some amelioration of the tax laws which would make it possible for a solicitor out of his net income to make some provision for somebody it seemed a little premature to decide what that body should be or how it was to work. They certainly did not exclude the possibility that they might take a hand in the matters themselves.

Remuneration: The Council's View

Mr. Roland Marshall said that he would like to make a few remarks on the points raised on the question of solicitors' remuneration by Mr. Bullock. He wished to thank him for his kindness and praise of the Council and the Scale Committee with regard to solicitors' remuneration, because, after all, as had been said, on this matter there was no difference of opinion whatever. The Council was strongly of opinion that the memorandum which he had put forward on the question should be implemented at the earliest possible moment. And he would further like to say that there was no difference whatsoever between London and the Provinces. It might very well be, as the Master of the City of London Solicitors' Company had said, that in the provinces the problem might not be quite so urgent as it was in London by reason of the fact of the large increase in the prices obtained for property and the consequent increases in solicitors' remuneration.

He wished to deal at once with the suggestion that perhaps London solicitors might have an opportunity of discussing this matter at a meeting where the provincial solicitors were present. That he thought could very easily be done by the very appropriate meeting held every year in London at which all the Presidents and Secretaries of local Societies were present. He would suggest that when that meeting came along, unless they had meantime settled the problem, that might be the appropriate time to deal with it.

Mr. Bullock, of course, gave very strong reasons why the Council's memorandum should be implemented. Every one of those reasons which he gave for the increase in remuneration was very strongly put by them when they went to see the Lord Chancellor and the Master of the Rolls, when, as was known, they got their general agreement, in principle, with all the suggestions put forward—subject to a point on the question of land registration charges. But, of course, they were in the difficulty—as indicated in the President's address—that although they had got the Lord Chancellor and the Master of the Rolls, and in fact all the people concerned, in complete personal agreement with them that their case was a good one, the Council had been asked to leave the matter over having regard to the position of the country at the moment, and it really in a sense had become somewhat of a political matter.

They gave the gravest consideration to the question as to whether, in view of the request by the Lord Chancellor, they should endeavour at this stage to go ahead and do what they could notwithstanding his request, but the Council and the Scale Committee were unanimously of the opinion that it would be very bad tactics. They had already got them on their side; they were willing to do what they could, and it was hoped they would deal with it when the time came, as they promised. He did not think anyone in that room could take the view that it would be other than a false move to endeavour to force the issue at this stage without at least giving the further time the Lord Chancellor had asked. Therefore the Council had decided unanimously that they proposed to leave it till towards the end of the year as requested by the Lord Chancellor. If the time came, as the Chancellor of the Exchequer had just hinted in relation to the question of personal incomes and the general situation in the country, within a few months that they might prove to be no better off, that would be a political issue, and the Council might have to give careful consideration again to the situation then to see whether it was possible for the profession to endeavour, notwithstanding the strong representations from the Government, to implement their memorandum.

Mr. Bullock had made some reference to the question of Legal Aid. That question in no way impinged on that of solicitors' remuneration, except that the profession was going to work Legal Aid at 85 per cent.—but that was another matter.

The Chairman said that, on the question of costs, he would like to say to Mr. Bullock and those who supported him that he had kept in close touch with the Lord Chancellor, even up to within the last few days, and he was quite convinced that if it had been possible for him to ensure a change of outlook in Parliament he would have done so. Meantime he (the President) had told him that this was a vital and an urgent question and that he felt perfectly certain he would have very strong views expressed at this meeting. He was very glad that they had been expressed, because it upheld their position with the Government and they would be able to show that their concern with the urgency of the matter had in no way abated.

With regard to Mr. Barry Cohen's suggestion, they would keep in mind what he had said about a certificate in lieu of examination in book-keeping and trust accounts, but it did raise, as would be readily appreciated, extremely important questions at this time.

Mr. H. A. H. Newington expressed the cordial thanks of those present to the Chairman and his colleagues, and in particular paid tribute to the enormous amount of time and work which the Chairman had put in throughout his year of office as President.

NOTES OF CASES

COURT OF APPEAL

DIVORCE: PETITION WITHIN THREE YEARS

Bowman *v.* Bowman

Bucknill and Denning, L.JJ., and Vaisey, J.
13th May, 1949

Appeal from an order of Judge Norris, sitting as a divorce commissioner.

The appellant husband and the respondent, his wife, were married in July, 1947, and there were no children of the marriage. Some six weeks after the marriage the wife left the home, and in April, 1949, she applied for leave to present a petition for divorce within three years of the date of the marriage. Of the affidavit in support of her application, twenty-one of the twenty-three paragraphs concerned the conduct of her husband while they were living together. In the other two paragraphs she stated that a witness to the alleged adultery, a woman who would be named, was about to go abroad, and that, unless she obtained the woman's evidence while she was in this country, she would suffer exceptional hardship. The commissioner granted the application, and the husband appealed.

BUCKNILL, L.J., said that if the matter of the woman's evidence had stood alone, that might not have been a case of exceptional hardship, since her evidence could not have been taken later on commission. It must be taken, however, that the commissioner, in finding that the wife had suffered exceptional hardship, had taken into consideration all the facts alleged as to the conduct of the husband, whom she had charged with adultery, cruelty and perverted lust. The appeal must be dismissed.

DENNING, L.J., said that by s. 1 of the Matrimonial Causes Act, 1937, leave could only be granted on the ground of exceptional hardship suffered by the would-be petitioner or of exceptional depravity on the part of the proposed respondent. The matter in issue was the meaning of the word "exceptional." The case put forward by the applicant must disclose "exceptional" depravity on the part of the other spouse or "exceptional" hardship suffered by the applicant. That involved an inquiry into the degree of depravity alleged or the degree of hardship said to be suffered—an inquiry which might prove to be difficult. The only cases in which the question arose were those of adultery and cruelty. If there were nothing more than adultery with one other person within the first three years of marriage, normally that might be considered ordinary depravity. There was unfortunately nothing exceptional about that situation. Nor did that situation involve exceptional hardship on the innocent spouse, the applicant. If, however, the adultery were coupled with other matrimonial offences, for example, desertion in favour of another woman, or cruelty, causing the wife not only distress by the adultery but also injury by violence, then, even if the husband's offence could not be stigmatised as exceptional depravity on his part, nevertheless it did involve exceptional hardship suffered by the wife. Even when the adultery was not coupled with desertion or cruelty, it might be committed in such aggravating circumstances as to show exceptional depravity, and the consequences of it might involve exceptional hardship to the applicant, for instance, when a wife, as a result of adultery, had a child by another man, so that the husband, if he took his wife back, would also have to maintain another man's child. The husband who committed adultery within a few weeks of marriage, or promiscuously with more than one woman, or with his wife's sister, or with the maid in the house might probably be labelled as exceptionally depraved. Cruelty again, by itself, was unfortunately not exceptional; but if it were coupled with aggravating circumstances, for instance drunkenness and neglect, or if exceptionally brutal or dangerous to health, then, even if it did not evidence exceptional depravity on the part of the proposed respondent, it did at least cause the applicant to suffer exceptional hardship. If coupled with perverted lust it showed exceptional depravity on the part of the proposed respondent. The really important consideration in all cases was whether there was any chance of reconciliation. On that point, it was most material to inquire what the applicant had already done to try to become reconciled. If the court were not satisfied that everything reasonable had been done in that respect, it might well dismiss the application. Here it was properly granted.

VAISEY, J., agreed that the appeal should be dismissed.

APPEARANCES: *William Phillips* (*Collyer-Bristow & Co.*, for *Band, Hatton & Co.*, Coventry); *Fairweather* (*Langhams & Letts*, for *Philip Baker & Co.*, Birmingham).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

APPEAL: FURTHER EVIDENCE AS TO CREDIT OF WITNESS

Braddock *v.* Tillotson's Newpapers, Ltd.

Tucker, Cohen and Singleton, L.JJ. 22nd June, 1949

Appeal from a judgment of Lord Goddard, C.J., sitting with a special jury.

The plaintiff, a Member of Parliament, claimed damages for libel from the defendants in whose newspaper it was reported that she had danced a jig on the floor of the House of Commons. She complained that that meant that she had behaved in an undignified and unseemly manner, and that her reputation had been damaged. The defendants pleaded fair comment. It was conceded by the plaintiff that, if the facts reported were true, the comment on them was fair. On the issue of truth the jury found for the defendants, and the strongest evidence that the plaintiff had behaved in a way which was properly described as dancing a jig was in the testimony of a reporter of the Press gallery in the House. After the trial an application was made to the Court of Appeal, on behalf of the plaintiff, for leave to recall and further cross-examine the reporter, as it was desired to put to him some nine convictions involving dishonesty over a period of some ten years. The court adjourned that application for determination by the court which heard the appeal. (*Cur. adv. vult.*)

TUCKER, L.J., said that there was ample evidence on which the jury could find a verdict for the defendants. There was no ground for complaint made of the summing up. The second and more important aspect of the case was the application for permission to recall the reporter. He (his lordship) would assume that if the desired matters had been put to the reporter they would have been established as facts. The application was made under R.S.C., Ord. 58, r. 4, which provided: "The Court of Appeal shall have . . . full discretionary power to receive further evidence upon questions of fact . . . by oral examination in court . . ." It had been the invariable practice of the court to confine the admission of fresh evidence in circumstances such as these (1) to evidence which could not reasonably have been discovered before the trial, and (2) to evidence which, if believed, either would be conclusive, or, as had been said by some judges, would lead to a reasonable probability that the verdict would have been different. The practice had hitherto been confined to evidence relating to an issue in the case, or, at any rate, to an issue which could or might yet be raised if there were another trial of the action. No case had been cited by counsel on either side in which the court had been asked to admit fresh evidence going only to the credit of a witness. That, of course, was not conclusive as to the jurisdiction of the Court of Appeal: the court clearly had jurisdiction to take any course which it thought fit in a matter of that kind. The first test, that of diligence, was hardly applicable to evidence of that kind. Neither solicitors nor their clients could be expected to go rummaging around in the record of any witness who, they knew, was going to be called against them. As for the second test, there had been variation in the language of the judges as to the quality of the new evidence to be admitted. Was it sufficient that it should be such that there was a reasonable probability that, if it had been given at the trial, the verdict of the jury would have been different? Lord Loreburn, L.C., and Lord Shaw had used different language on that point in *Brown* v. *Dean* [1910] A.C. 373; and see *R.* v. *Copestake* [1927] 1 K.B. 468. The varying expressions of view on the point had, however, always been in reference to some issue directly relevant in the action. It was therefore not necessary in the present case to decide which of the two views as to the quality of the new evidence was the better. For the court to depart from the invariable practice of confining new evidence to matters relevant to an issue in the case, and to admit new evidence which went to credit only, would only be justified where the new evidence was of such a nature and the circumstances were such that no reasonable jury could be expected to act on the evidence of the witness whose character was called in question. It would be wrong to admit new evidence as to credit merely because there was a possibility, or even a reasonable probability, that that evidence would result in a different verdict. The court had to bear in mind the two necessities: (1) that everything should be done for ascertainment of the truth, and (2) that there should be finality of proceedings. The second necessity required the imposing of a limit on proceedings even where there was a possibility of injustice resulting. The case principally relied on for the plaintiff, *R.* v. *Hamilton* (1917), 87 L.J.K.B. 734, was distinguishable. Applying the principles which he had adumbrated, he thought it impossible to say that, if the question had been put to the reporter at the trial which it

was desired to put to him now, no reasonable jury could have reached the conclusion which was reached in fact. It was not known what the effect would be on the jury of putting such questions. They might have thought that the convictions, if proved, did not necessarily mean that he was an inaccurate reporter. The application to recall him must be refused, and the appeal dismissed.

COHEN and SINGLETON, L.JJ., delivered concurring judgments.

APPEARANCES: *Paget*, K.C., and *Harold Lever* (*Mawby, Barrie & Letts*, for *Silverman & Livermore*, Liverpool); *Sir Walter Monckton*, K.C., and *Milmo* (*Oswald Hickson, Collier and Co.*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

RENT RESTRICTION: TRANSPORT COMMISSION NOT EXEMPT

Tamlin *v.* Hannaford

Bucknill, Asquith and Denning, L.JJ.
8th July, 1949

Appeal from Plymouth County Court.

The county court judge made an order in favour of the plaintiff for possession against the defendant, her sub-tenant, on the basis that the plaintiff held the house in question as tenant from the British Transport Commission, as successors in title to the Great Western Railway Co., and that the commission as servants or agents of the Crown were not bound by the Rent Restriction Acts, so that the house was not within them. The defendant sub-tenant appealed. (*Cur. adv. vult.*

DENNING, L.J., reading the judgment of the court, said that it had been decided that the Crown and its servants and agents were not bound by the Rent Restriction Acts in *County of London Territorial Forces Association* v. *Nichols* [1949] K.B. 35; 92 SOL. J. 455. In considering whether any subordinate body was entitled to that Crown privilege the question was not so much whether it was an "emanation of the Crown," a phrase first used in *Gilbert* v. *Trinity House* (1886), 17 Q.B.D. 795, but whether it was properly to be regarded as the servant or agent of the Crown; see *International Railway Company* v. *Niagara Parks Commission* [1941] A.C. 328, at p. 343. In the case of the British Transport Commission that depended on the true construction of the Transport Act, 1947. That Act brought into being the commission, a statutory corporation of a kind comparatively new to English law. It had many of the qualities which belonged to corporations of other kinds. It had, for instance, defined powers which it could not exceed and it was directed by a group of men whose duty it was to see that those powers were properly used. It might own property, carry on business, borrow and lend money, just as any other corporation might do, so long as it kept within the bounds which Parliament had set. The significant difference was that there were no shareholders to subscribe the capital or to have any voice in its affairs. The money which the corporation needed was not raised by the issue of shares but by borrowing; and its borrowing was not secured by debentures but was guaranteed by the Treasury. If it could not repay, the loss fell on the Consolidated Fund of the United Kingdom: that was, on the taxpayer. Indeed, the taxpayer was the universal guarantor of the corporation though there were other persons who had also a vital interest in its affairs. All who used the services which it provided and whose supplies depended on it—in short, every one in the land—was concerned in seeing that it was properly run. The protection of the interests of all those—taxpayer, user, and beneficiary—was entrusted by Parliament to the Minister of Transport. He was given powers over the corporation which were as great as those possessed by a man who held all the shares in a private company, subject, however, as such a man was not, to a duty to account to Parliament for his stewardship. It was the Minister who appointed the directors—the members of the commission—and fixed their remuneration. He was given power to give them directions of a general nature in matters which appeared to him to affect the national interest—as to which he was the sole judge—and they were then bound to obey. These were great powers, but still the court could not regard the corporation as being his agent any more than a company was the agent of the shareholders, or even of a sole shareholder. In the eyes of the law the corporation was its own master and was answerable as fully as any other person or corporation. It was not the Crown and had none of the immunities or privileges of the Crown. Its servants were not civil servants and its property was not Crown property. It was as much bound by Acts of Parliament as any other subject of the King. It was, of course, a public authority, and its purposes, no doubt, were public purposes, but it was not a Government department, nor did its powers fall within the province of Government. The only fact which could be said to make the commission a servant or agent of the Crown was the control over it which the Minister of Transport exercised. But there was ample authority for saying that such control as he exercised was insufficient for the purpose: see *Central Control Board (Liquor Traffic)* v. *Cannon Brewery Company, Ltd.* [1919] A.C. 744, at p. 757. When Parliament intended that a new corporation should act on behalf of the Crown, it as a rule said so expressly, for example, in the case of the Central Land Board under the Town and Country Planning Act, 1947, which was passed on the very same day as the Transport Act, 1947. In the absence of any such express provision, the proper inference, in the case at any rate of a commercial corporation, was that it acted on its own behalf, even though it was controlled by a Government department. The commission, therefore, was not a servant or agent of the Crown, and its property was as much subject to the Rent Restriction Acts as the property of any other person. Appeal allowed. Case remitted.

APPEARANCES: *Sir Valentine Holmes*, K.C., and *Ashworth* (*Kinch & Richardson* for *Broadbent & Huddart*, Plymouth); *Barry*, K.C., and *Cridlan* (*Kenneth Brown, Baker, Baker*, for *W. H. Sloman*, Plymouth).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

CHANCERY DIVISION

BANKRUPTCY: BANKRUPT'S CLAIM FOR DAMAGES: DAMAGES FOR LOSS OF REPUTATION OR INJURY TO PROPERTY: APPORTIONMENT BETWEEN BANKRUPT AND TRUSTEE: AFTER-ACQUIRED PROPERTY

***In re* Kavanagh; Kavanagh *v.* The Trustee**

Jenkins, L.J., and Romer, J. 27th June, 1949

Appeal from an order of His Hon. Judge Kingsley Griffith sitting at Scarborough County Court.

Four days before the receiving order (which was made on 11th November, 1947), the debtor issued a writ against X claiming damages for loss of credit and reputation and also for damage to her property. In December, 1947, she was adjudged bankrupt but continued to prosecute the case against X alone without intervention of the trustee in bankruptcy. On 10th November, 1948, the trustee wrote to the debtor's solicitors that in reliance on s. 38 of the Bankruptcy Act, 1914, he would claim any sum recovered in the action as after-acquired property. On 22nd February, 1949, X settled the claim out of court by agreeing to pay £1,000. On 4th March, 1949, the trustee claimed the sum and a few days later moved the county court accordingly; the debtor opposed the motion. It was agreed by the parties, on the authority of *Wilson* v. *United Counties Bank* [1920] A.C. 102, that the money was payable to the bankrupt in so far as it represented damage to her health, peace of mind, credit or reputation, and to the trustee in so far as it represented damage to her estate. The learned county court judge found that the parties to the action had not allocated the sum to those different heads of damage, that the facts did not support an allocation to any of those heads, but basing himself on the assumptions necessarily underlying X's payment, he allocated £300 to the bankrupt and £700 to the trustee. The debtor appealed to the Divisional Court in Bankruptcy.

JENKINS, L.J., said that the argument on behalf of the trustee, that *prima facie* all property accruing to the bankrupt before her discharge vested in the trustee under s. 38, and that accordingly the onus was on the bankrupt to displace that presumption, though at first sight logical and attractive, ignored the very important circumstance that the sum was paid to extinguish both claims, and had, therefore, *prima facie* to be treated as attributable to both classes of claims. He (his lordship) agreed with the learned county court judge that there were no facts guiding the court in arriving at the apportionment and that despite the lack of guidance an apportionment should be made in the circumstances of the case. However, in the absence of any particular evidence to show in what particular share the sum should be apportioned, the only possible solution was to make the apportionment equally between the two heads of the claim. Consequently £500 should go to the debtor and £500 to the trustee.

ROMER, J., concurred.

Order of county court varied; leave to appeal granted to trustee.

APPEARANCES: *Muir Hunter* (*Tasker Hart & Munby*, Scarborough); *V. R. Aronson*, K.C. (*Cook, Fowler & Outhet*, Scarborough).

[Reported by CLIVE M. SCHMITTHOFF, Esq., Barrister-at-Law.]

KING'S BENCH DIVISION

INCOME TAX: INVESTMENT COMPANY: "EXPENSES OF MANAGEMENT"

Capital and National Trust, Ltd. *v.* Golder

Croom-Johnson, J. 19th May, 1949

Case stated by the Commissioners for the Special Purposes of the Income Tax Acts.

The appellant investment trust company's business consisted in the making of investments, from which the principal part of their income was derived. They claimed under s. 33 of the Income Tax Act, 1918, repayment of income tax paid for the year ending 5th April, 1948, on sums disbursed as expenses of management for the year. Those expenses included sums in respect of brokerage and stamp duty paid when a change was made in the company's investments with a view to maintaining their income. By s. 33 (1) where a company like the appellants "proves to the .... special commissioners that, for any year of assessment, it has been charged tax . . . and has not been charged in respect of its profits in accordance with the rules applicable to Case I of Schedule D, the company . . . shall be entitled to repayment of so much of the tax paid as is equal to the amount of the tax on any sums disbursed as expenses of management (including commissions) for that year." The commissioners were of opinion that charges for brokerage and stamp duty necessarily incurred in a purchase or sale of shares did not constitute "expenses of management," and rejected the company's claim. The company appealed.

CROOM-JOHNSON, J., said that in his opinion the expenses in question were not expenses of management at all. That expression being given its ordinary meaning, it could not possibly be said, in the case of an investment company, that changing their investments, paying for stamps on transfers and contract notes, and paying brokers' remuneration were "the management" of the company, even though those things were incidental to the business of an investment company. The word "commissions" was not apt to cover a stockbroker's commissions. It was aimed at something different—for instance, the case of a person managing a concern and receiving, as part of his remuneration, a commission on income. The appeal must be dismissed.

APPEARANCES: *Grant*, K.C., and *Heyworth Talbot*, K.C. (*Linklaters & Paines*); *Donovan*, K.C., and *Hills* (*Solicitor of Inland Revenue*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

PROBATE, DIVORCE AND ADMIRALTY

WILL: ATTESTED INSTRUCTIONS

***In re* Meynell, deceased**

Barnard, J. 5th May, 1949

Probate action.

The deceased dictated instructions for his will to a solicitor. As he had been warned that he might die suddenly owing to his physical condition, the solicitor added an attestation clause to the foot of the instructions. The deceased signed the instructions, and his signature was witnessed as prescribed by s. 9 of the Wills Act, 1837. The formal document was not in fact prepared from the instructions before the sudden death of the deceased. The plaintiffs sought probate in solemn form of the attested document of instructions.

BARNARD, J., referred to *Godman* v. *Godman* [1920] P. 261, and *Torre* v. *Castle* (1836), 1 Curt. 303, and said that in his opinion, without deciding the point, if since the passing of the Act of 1837 a person troubled to comply with its formalities and had a document, whatever its form, duly executed, there was a very strong presumption that that document was intended to be a will. He could not find that any of his predecessors had said so, and nearly all reported cases concerning informal documents had been decided before the passing of the Wills Act, 1837. There was, however, no necessity for such a presumption in the present case, for it was clear from the evidence that the document was intended to be a will. Grant of probate in solemn form.

APPEARANCES: *Karminski*, K.C., *Ifor Lloyd* (*Woodcock, Ryland & Co.*, for *Louch, Willmott & Clarke*, Yeovil); *Leslie Brooks* and *Cecil Herd* (*D. Edgar Rodwell & Co.*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

SOUTHWARK CONSISTORY COURT

CHURCH ORNAMENTS: FACULTY FOR ALTAR LIGHTS

***In re* Church of Holy Trinity, Woolwich**

Chancellor Garth Moore. 28th April, 1949

Petition.

The petition was presented by the Rev. H. J. C. Wall, the rector and the churchwardens of Holy Trinity Church, Woolwich, asking for a faculty for the removal of a redundant brass eagle lectern, for the removal from the Holy Table of a cross with a movable oak base, and for leave to place thereon six candlesticks and a crucifix to be inscribed with certain commemorative words in place of the above-mentioned cross and base. The petition was not opposed.

The CHANCELLOR (Mr. E. Garth Moore) said that there were only two points on the petition which exercised him. The first was whether the inscription "*Requiescant in pace*" to be added to the memorial words on the crucifix was a proper inscription, and the second, whether he had power to issue a faculty for six lights on the altar. On the first point, he had been doubtful, as this was a substitute for a memorial erected in 1882, whether the words "*Requiescant in pace*" would have been proper to use in 1882. He was now satisfied that they would have been, and accordingly the inscription could properly be allowed. The second point was not, however, free from doubt. In *Rector and Churchwardens of Capel St. Mary* v. *Packard* [1927] P. 289, the Dean of the Arches ordered the removal of four out of six candlesticks on a church altar. But in that case it had not been argued that the six lights could be retained, and the Dean had not really passed judgment on the point. In his own opinion, no rule of law or usage could be laid down as to the number of lights on the altar. He did not regard himself as bound by the decision in *In re St. Saviour's, Hampstead* [1932] P. 134, decided by Chancellor Errington of the diocese of London, and he accepted the argument of Mr. Macmorran in that case that the *Bishop of Lincoln's* case [1892] A.C. 644 merely decided that lights on the altar were lawful. Modern research had shown that the old English use was to place lights on the Holy Table during service times, and that the number of lights varied. In his judgment it was not illegal to place six candlesticks on the Holy Table, but he proposed to leave it to the Ordinary to decide the number of candles to be used at any given time. The faculty would be granted subject to a direction that until further order not more than two of the lights were to be used upon the altar at the same time. If the Ordinary, as a matter of good order, should approve of the use of more than two lights at the same time the Chancellor would be prepared to grant permission.

APPEARANCES: *W. S. Wigglesworth*, for petitioners (*Trollope and Winckworth*).

[Reported by H. LANGFORD LEWIS, Esq., Barrister-at-Law.]

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CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of THE SOLICITORS' JOURNAL*]*

Minimum Scales of Conveyancing Charges

Sir,—We are so accustomed to our grandmother, The Law Society, teaching us to suck eggs that when the old lady takes to plundering the hen-roosts we find it hard to realise that she has caught the totalitarian virus, particularly when, as on this occasion, she has been prompted and encouraged by a number of those normally respectable matrons, the provincial societies.

It must be recognised that the proposal, explained in the President's address to be delivered at the Annual General Meeting on 8th July, to enforce a minimum scale of charges throughout the country, to be charged, "subject to certain exceptions," however well established the client may be and however hardly the charge may press on him, is a frontal assault on the ethics of this and every other profession. This will be better understood when it is realised that the scale recommended by The Law Society is the "South Western Scale," a document so illiberal in intent and form that, to one brought up to believe that the practice of the law demands something beyond the mere profit motive, its perusal makes the blood boil.

Surely, sir, the times are not too late for us to remember the saying of St. Ives, patron of the City of London Solicitors' Company, that he was "*advocatus sed non latro*," or that passage in the Hippocratic Oath against charging fees to those who cannot afford them? Surely the cotton wool of the Rushcliffe Scheme is not yet so thick about us that we can say: "We shall do nothing for nothing"?

Never before in this country has any profession given up that essential discretion of its members to charge what is, in their opinion, fair in the circumstances, and if we now, blindly led by the blind, join the ranks of the motor trade association and other such close-ringed organs of commerce, we shall indeed have fallen from grace . . .

For my part, I charge the full scale to my clients and have suffered considerably in pocket by the failure so far to secure an increase in that scale for larger transactions; on the other hand, I do not hesitate to charge what lower fee is fair, should the circumstances so demand and provided my action attracts no client from my brethren. There are occasions, such as on a double transaction, when it is undesirable to extract the uttermost farthing and in the interpretation of r. 6 there seems to be considerable divergence of opinion as to what the proper charge should be. How many of us would, in practice, refer a hard case to the decision of a committee, possibly at the other end of the land, whose outlook we might detest, and who might well acquire information properly sacred as between solicitor and client, as envisaged by the rules put forward? Not I, for one.

The reference to London in the Presidential address shows all too clearly the benighted state of the scheme's proposers. A section of London has expressed opposition and threatens more. Therefore London has been excluded from the proposed scale. Moreover, it is not in the provinces and has no representative provincial society. Therefore it may be left to stew in its own juice. But what proportion of conveyancing work done by London solicitors relates to land in the administrative county? Why is it imagined that a local society is the only body interested in land in that society's area. In my own firm's case, a very high proportion of our transactions in the last few years has been in respect of land outside our local area, and that must be the experience of very many. This problem is one which affects the profession as a whole and no assembly of provincial law societies should be permitted to fasten on us local shackles which together make a general chain. The "overwhelming majority" of which the President is to speak was of an assembly of persons without the mandates even of their committees and who were expressly told by the President that they came as individuals only; in any case those who voted were that remnant who, faithful to the last, had not departed to catch their homeward trains.

Once machinery of this sort is set in motion it acquires a momentum, through efficient staff work, which is difficult to stop. Stopped it must be if we are to be a profession and not a soviet of irresponsible cogs. The sooner it is done the less bones will be broken. Will others help in restoring our grandmother to the paths of virtue?

R. E. BALL.

Chester.

SURVEY OF THE WEEK

HOUSE OF LORDS

A. PROGRESS OF BILLS

Read First Time:—

Edinburgh and Midlothian Water Order Confirmation Bill [H.C.] [4th July.
Pier and Harbour Provisional Order (Crarae) Bill [H.C.] [4th July.
Pier and Harbour Provisional Order (Southwold) Bill [H.C.] [4th July.
Salford Corporation Bill [H.C.] [4th July.
Southampton Harbour Bill [H.C.] [4th July.
Teesside Railless Traction Board (Additional Routes) Provisional Order Bill [H.C.] [4th July.

Read Second Time:—

Barnsley Corporation Bill [H.C.] [7th July.
Legal Aid and Solicitors (Scotland) Bill [H.C.] [7th July.
London County Council (Money) Bill [H.C.] [7th July.
Married Women (Maintenance) Bill [H.C.] [7th July.
Married Women (Restraint upon Anticipation) Bill [H.L.] [4th July.
Mersey Tunnel Bill [H.C.] [7th July.
Nurses (Scotland) Bill [H.L.] [7th July.
Urmston Urban District Council Bill [H.C.] [4th July.
Vehicles (Excise) Bill [H.L.] [4th July.

Read Third Time:—

Merchant Shipping (Safety Convention) Bill [H.C.] [6th July.
Superannuation Bill [H.C.] [7th July.

In Committee:—

Housing Bill [H.C.] [6th July.
Licensing Bill [H.C.] [4th July.

B. DEBATES

LORD CROOK, in moving the Second Reading of the **Married Women (Maintenance) Bill**, said its main purpose was to amend the Summary Jurisdiction (Married Women) Act, 1895, in ss. 5 and 7, and the Married Women (Maintenance) Act, 1920. The 1920 Act had enabled payments of 10s. per week to be ordered in respect of each child and in 1920, in reply to a question, the Home Secretary had stated that the Government of the day had an amending Bill ready for presentation to increase the amounts of orders but that Bill had never been brought before the House. In 1895, £2 a week was a substantial sum when many husbands could earn only 18s. a week, and had represented a fair dividing line between the jurisdiction of the High Court and the courts of summary jurisdiction. He reminded their lordships that in order to get maintenance on the High Court scale the wife had to go to the additional expense of petitioning the court for judicial separation, divorce or nullity. Bearing in mind the rise in the cost of living and of wages since 1895, it was felt that £5 now represented a suitable line at which to separate the jurisdictions afresh. With regard to the maximum of 30s. per week fixed for a child's order, they might feel that this should rather be 20s. in order to bring it into line with s. 7 (*c*) of the Guardianship of Infants Act, 1925, which provided for 20s. He thought the Acts dealing with women and children were crying out loud for consolidation. With regard to the raising of the age to which allowances for children could be ordered to twenty-one years, Lord Crook pointed out that s. 25 (1) (*b*) of the Finance Act, 1944, in its definition of "small payments" included the words "for the benefit of or for the maintenance of a person under sixteen years of age," which might cause difficulties if not amended in the new Bill. With regard to cl. 6, inconvenience and hardship had been caused to women by the fact that the only court able to deal with their claims was the one in the area in which the cause of complaint had arisen; the clause would relieve this position and in view of the attempts being made to secure mutual enforcement between England and Scotland, he understood the Home Secretary regarded this particular clause as especially valuable. Coming to the clause which removes appeals from the Divisional Court of the Probate, Divorce and Admiralty Division to quarter sessions, Lord Crook said the Lord Chancellor had expressed to him some doubts on that matter which he knew were shared by other noble lords.

LORD MERRIMAN said the change which Lord Crook had just alluded to would, in his opinion, be very much a change for the worse. He felt some embarrassment, as he himself presided over the court whose activities were to be so drastically curtailed by the clause, but he thought it unsound to talk of linking this system

of appeals with the general system of appeals from magistrates' courts in criminal cases. In 1895 it was only as a matter of procedure that this matrimonial jurisdiction had been linked with the Summary Jurisdiction Acts, which dealt with small offences and with orders for the payment of money. It had in fact been held that these Acts were not part of the Summary Jurisdiction Acts at all. The whole code was civil in character and identical with that enforced in the Divorce Division, the only difference being that that division had the additional power of dissolving the marriage. Hence inevitably in 1895 appeal in these matters had been given to the Divorce Division. The issues were the same and the standard of proof the same in adultery cases, cruelty, desertion, and even wilful neglect to maintain, in both courts, and there was a private Bill on the way designed to enable maintenance proceedings to be taken in the High Court without the necessity of petitioning for divorce or judicial separation. Lord Crook was mistaken when he said that the Divisional Court dealt only with questions of law. It was governed by exactly the same rules as the Court of Appeal, and was not limited solely to questions of law. The procedure was a rehearing, though without witnesses. The court was expressly empowered to draw any inference of fact which the court below could have drawn. They were not to upset a case merely because of a misdirection unless they were satisfied that that had caused a substantial miscarriage of justice.

In his sixteen years' experience, LORD MERRIMAN said that at the beginning it had been the exception to receive an intelligible note of the evidence and an intelligent statement of the magistrates' reasons. It was not for him to say why, but the position was now completely changed, so that they were now quite well equipped to deal with these appeals. The Divisional Court and the justices were in precisely the same relationship to each other as the judges of the Divorce Division were to the Court of Appeal. The result was that the whole code governing matrimonial offences was in its appellate aspect vested in either the Court of Appeal or in two judges of the Divorce Division whose particular business it was to be versed in those matters.

He had nothing to say against quarter sessions, but he doubted very much whether clerks of the peace of counties had any experience whatever in matrimonial jurisdiction. They were unlikely to have been clerks of justices. As a rule there were no books available at quarter sessions, and there was no method of co-ordinating the decisions of one court of quarter sessions with another. Again, the Divisional Court had power to give a wife security for costs, but as far as he knew quarter sessions had no such power, and her reputation would be at the mercy of an appeal by her husband to quarter sessions, unless the Rushcliffe Scheme was going to be applied to quarter sessions. The average cost of an appeal to the Divisional Court was £30, whereas that to quarter sessions was £35—due to the necessity of recalling the witnesses in the latter case, so that there was nothing in the argument as to expense. The alternative was to be a case stated on the same principle as the Court of Appeal heard appeals from the Divisional Court. He thought it would be quite impossible to state a case when the question arose over a course of conduct extending over several years. A much better way would be to deal with the matter as they did at present, namely, obtain from the note a correct appreciation of what the facts were and then apply the law to them, instead of trying to bind the Divisional Court by a case stated on what was really inference from a course of conduct extending over many years.

Lord Crook had said some appellants felt resentment because in some cases the Divisional Court, not having seen the witnesses, felt that it could not interfere with the decision of the lower court. That argument could be used to justify an unsuccessful divorce petitioner in having a re-trial without the necessity of going to the Court of Appeal. He had analysed these appeals and found that only 15 per cent. were suitable to be dealt with by way of case stated, and of the rest, 15 per cent. were on the question of amount. They should not be the subject of appeal at all—but the litigant should go back to the justices who had ample power to review their first order. Of the other 70 per cent. in only about 10 per cent. of cases did they reject the appeal because they had not heard the witnesses. The judges felt that this clause would deprive them of their most useful class of work and he hoped that it would be withdrawn.

LORD SIMON said this clause had been accepted in the House of Commons without any debate at all. He felt that the judges of the Divorce Division were unquestionably the persons who, by experience, devotion and skill, were best able to deal with these appeals. LORD MESTON said that the view a man takes of the amount of his income is sometimes coloured by the situation in which he finds himself and he thought that the magistrates should have precisely the same powers as the High Court had for ascertaining the amount of the incomes of the spouses. He thought it a mistake to give the collecting officer the duty of deciding what were "special circumstances," before he informed a wife of the arrears accumulating on an order. As to cl. 7, he would move its deletion on Committee Stage if no one else did. The divorce judges took immense pains to get to the root of the matter, and he thought case stated a very undesirable way of ascertaining anything. LORD READING said Lord Crook had mentioned that men had a grievance about being brought up to London. At quarter sessions, the appellant and all the witnesses would have to appear, but there was no reason at all for any of them to be present in London. It could be dealt with entirely by the man's legal advisers. Those who practised in the Divorce Division repudiated any suggestion that it was dilatory or inefficient. He hoped this regrettable clause would disappear into the shadows from which it ought never to have emerged.

In reply, LORD CHORLEY said in fact the clause had not been inserted at the last moment but had replaced a similar clause which had been sanctioned in Committee. The substantial point in favour of quarter sessions was that they would hear the case at first hand and not on paper, but he had noted the criticisms and it might be that Lord Crook would be able to accept an amendment deleting the clause when the Bill came up again in Committee. [7th July.

HOUSE OF COMMONS

A. PROGRESS OF BILLS

Read First Time :—

House of Commons (Indemnification of Certain Members) Bill [H.C.] [5th July.

To indemnify John Burns Hynd, Esq., John James Robertson, Esq., and Albert Evans, Esq., from any penal consequences which they may have incurred under the Succession to the Crown Act, 1707, the House of Commons (Disqualification) Act, 1782, or the House of Commons (Disqualifications) Act, 1801, in respect of certain matters arising before the passing of this Act, and to remove any disqualification for membership of the House of Commons so incurred by them.

Overseas Resources Development Bill [H.C.] [5th July.

To empower the Treasury under s. 12 of the Overseas Resources Development Act, 1948, to guarantee other charges, as well as interest, in respect of loans made to the Corporations established under that Act.

Read Second Time :—

Crewe Corporation Bill [H.L.] [4th July.
Manchester Ship Canal Bill [H.L.] [4th July.

Read Third Time :—

Colonial Development and Welfare Bill [H.C.] [8th July.
Colonial Loans Bill [H.C.] [8th July.
Docking and Nicking of Horses Bill [H.C.] [8th July.
Law Reform (Miscellaneous Provisions) Bill [H.C.] [8th July.
Marriages Provisional Orders Bill [H.C.] [7th July.
Ministry of Health Provisional Order (Chichester) Bill [H.C.] [7th July.
Ministry of Health Provisional Order (Macclesfield) Bill [H.C.] [7th July.
Ministry of Health Provisional Order (Morley) Bill [H.C.] [7th July.
Ministry of Health Provisional Order (South Molton) Bill [H.C.] [7th July.

B. QUESTIONS

In reply to a number of Questions, the SOLICITOR-GENERAL said that he could not yet say when the Final Report of the Leaseholds Committee would be available. [4th July.

Mr. SILKIN stated that up to 31st May, £1,047,500 had been determined as development charge and set off against claims on the £300 million, in addition to the collection of £1,025,025. [5th July.

Mr. THORNTON-KEMSLEY asked the Minister of Health if he would take the power to prevent the requisition of property which was unoccupied pending the determination of development charge under the terms of the Town and Country Planning Act, 1947, in cases where the absence of beneficial occupation was due to delay on the part of the Central Land Board. In reply, Mr. BEVAN said that in cases where he authorised the requisition

of unoccupied dwellings the owners had the right to make representations which the local authority had to take into account before deciding whether to retain the premises. [7th July.

Mr. LIPSON asked the MINISTER OF HEALTH whether it was his practice to grant a building licence to an applicant willing to build his own house for his own occupation by his own labour, provided that it was recommended by the local authority and the plans approved. Mr. BEVAN replied that there was no general exception to the arrangements for granting such licences in favour of the particular class of applicant mentioned. He had made some concessions a little while ago which had been abused, but in any case it was the shortage of soft woods which were the limitation at the moment, and unless a person had supplies thereof which he ought not to have he could not build his own house. [7th July.

Mr. HECTOR MCNEIL stated that in the case of *Krajina* v. *Tass Agency* the Court of Appeal, applying the existing law, had decided that on the evidence it did not appear that the Tass Agency was a legal entity separate from the Soviet Government, and hence that action would not lie against the Agency. The immunity from suit of foreign States, their Governments and Government Departments, was different from diplomatic immunity, but rested equally upon an established principle of law. The Government was studying the decision, but he was not able yet to say whether any change in the existing law was necessary, and as leave had been given to appeal to the House of Lords any statement would be premature. [4th July.

Lieut.-Commander CLARK HUTCHISON asked whether the Attorney-General was aware that war pensions (special review) tribunals were hearing and deciding cases in the absence of the appellant, without the latter giving prior permission, and whether he would cause these tribunals to follow the normal rules of procedure laid down by the Lord Chancellor. In reply, the SOLICITOR-GENERAL said that in the public interest and in order to prevent the procedure dragging on interminably it had been decided that in certain circumstances appeals should be heard *ex parte*, but only after the appellants had been informed that if they did not attend the case might be heard in their absence. If any of them had asked for an adjournment his request would have been granted. In the circumstances the Lord Chancellor did not propose to extend the statutory rules of procedure in every particular to these non-statutory special review tribunals whose object was merely to advise the Minister on the question of granting *ex gratia* payments. [4th July.

Sir STAFFORD CRIPPS stated that the stamp duty of 2d. on sums of £2 and upwards was still in force. The form of voucher commonly given by retail shops in cash transactions where the whole of the goods purchased were taken away by the customer on payment of the price, being primarily a document used for internal book-keeping purposes, did not constitute a receipt, and was not liable to stamp duty provided it contained no word stating or implying receipt or payment of money. The customer was, however, entitled to demand a receipt, and the Stamp Act imposed a penalty for issuing a receipt liable to duty but not duly stamped, or for refusing to give a duly stamped receipt. [4th July.

STATUTORY INSTRUMENTS

Air Navigation Acts (Ceylon) Order in Council, 1949. (S.I. 1949 No. 1233.)

Agriculture Act, 1947 (Commencement) Order, 1949. (S.I. 1949 No. 1201.)

This Order brings ss. 47 to 67 of the Act, the Eighth Schedule and s. 110 (Repeals) (so far as the enactments set out in the Schedule to the Order are concerned), into force on 31st October, 1949.

Draft **Alkali, etc., Works** Order, 1949.

Barley (Northern Ireland) Order, 1949. (S.I. 1949 No. 1186.)

Burgh of Galashiels Water Order, 1949. (S.I. 1949 No. 1216.)

Button Manufacturing Wages Council (Great Britain) (Constitution) Order, 1949. (S.I. 1949 No. 1225.)

Draft **Civil Defence Corps** Regulations, 1949.

Draft Civil Defence Corps (Scotland) Regulations, 1949.

Draft Civil Defence (General) Regulations, 1949.

Draft Civil Defence (General) (Scotland) Regulations, 1949.

Claims for Depreciation of Land Values (Mineral Undertakings) (Scotland) Regulations, 1949. (S.I. 1949 No. 1194.)

Control of Employment Act (Expiry) Order, 1949. (S.I. 1949 No. 1238.)

This Order fixes 31st May, 1949, as the date on which the "emergency" ended for purposes of the Control of Employment Act, 1939.

Defence Regulations (No. 2) Order, 1949. (S.I. 1949 No. 1202.)

Dredge Corn (Great Britain) Order, 1949. (S.I. 1949 No. 1191.)

Dredge Corn (Northern Ireland) Order, 1949. (S.I. 1949 No. 1200.)

Foreign Marriage (Amendment) Order in Council, 1949. (S.I. 1949 No. 1235.)

By this Order Burma and Indonesia are added to the list of countries named in the Fourth Schedule to the Foreign Marriage Order in Council, 1947. The Order also amends the 1947 Order to bring it into accord with the British Nationality Act, 1948, by replacing the words "a British subject belonging to the United Kingdom" with "a citizen of the United Kingdom and Colonies domiciled or resident in, or originating from the United Kingdom."

Furniture (Maximum Prices and Charges) (Amendment No. 3) Order, 1949. (S.I. 1949 No. 1188.)

Hastings Water Order, 1949. (S.I. 1949 No. 1212.)

Landlord and Tenant (Rent Control) (Scotland) Regulations, 1949. (S.I. 1949 No. 1257.)

Livestock (Sales) Order, 1949. (S.I. 1949 No. 1253.)

Merchant Shipping (Safety Convention) (Liberia) Order, 1949. (S.I. 1949 No. 1236.)

National Galleries of Scotland (Application of Transferred Property) Order, 1949. (S.I. 1949 No. 1207.)

National Health Service (Medical Practices Compensation) Amendment Regulations, 1949. (S.I. 1949 No. 1248.)

National Health Service (Medical Practices Compensation) Amendment (Scotland) Regulations, 1949. (S.I. 1949 No. 1206.)

National Insurance (Death Grant) Regulations, 1949. (S.I. 1949 No. 1204.)

National Insurance (Unemployment Benefit) (Transitional) Amendment Regulations, 1949. (S.I. 1949 No. 1247.)

Navigation Order, No. 42, 1949. (S.I. 1949 No. 1218.)

Navigation Order, No. 43, 1949. (S.I. 1949 No. 1219.)

Navigation Order, No. 44, 1949. (S.I. 1949 No. 1220.)

Navigation Order, No. 45, 1949. (S.I. 1949 No. 1221.)

Navigation Order, No. 46, 1949. (S.I. 1949 No. 1222.)

North of Scotland Hydro-Electric Board (Constructional Scheme No. 10) Confirmation Order, 1949. (S.I. 1949 No. 1230.)

North of Scotland Hydro-Electric Board (Constructional Scheme No. 14) Confirmation Order, 1949. (S.I. 1949 No. 1231.)

North of Scotland Hydro-Electric Board (Constructional Scheme No. 21) Confirmation Order, 1949. (S.I. 1949 No. 1232.)

Pilotage Stages and Rates (Variation) Order, 1939 (Revocation) Order, 1949. (S.I. 1949 No. 1224.)

Police (Consolidation) (Amendment) Regulations, 1949. (S.I. 1949 No. 1245.)

Police (Scotland) (Amendment) Regulations, 1949. (S.I. 1949 No. 1242.)

Police (Women) (Consolidation) (Amendment) Regulations, 1949. (S.I. 1949 No. 1246.)

Police (Women) (Scotland) (Amendment) Regulations, 1949. (S.I. 1949 No. 1243.)

Potato Marketing Scheme, 1933 (Modification and Suspension) (Amendment) Order, 1949. (S.I. 1949 No. 1259.)

Rabbits and Hares (Amendment No. 2) Order, 1949. (S.I. 1949 No. 1254.)

Registration Acts (Copies of Consular Entries) Application Order, 1949. (S.I. 1949 No. 1239.)

This Order applies the provisions of the Registration Acts as to issue of certificates, etc., to copies of birth, death and marriage entries sent by consular officers for deposit with the Registrar-General in the United Kingdom.

Rye (Great Britain) Order, 1949. (S.I. 1949 No. 1192.)

Rye (Northern Ireland) Order, 1949. (S.I. 1949 No. 1199.)

Salvage of Waste Materials (Nos. 2 and 3) Orders (Revocation) Order, 1949. (S.I. 1949 No. 1244.)

Savings Bank. Treasury Warrant made under s. 3 of the Savings Bank (Barrister) Act, 1876, as amended by s. 5 of the Savings Banks Act, 1920, amending the Treasury Warrant dated 9th April, 1921. (S.R. & O., 1921, No. 622.) (S.I. 1949 No. 1228.)

Soap (Licensing of Manufacturers and Rationing) (Amendment) Order, 1949. (S.I. 1949 No. 1255.)

Trinity House Pilotage Districts (Emergency) Order, 1939, and the London Pilotage (Emergency) (No. 2) Order, 1942 (Revocation) Order, 1949. (S.I. 1949 No. 1223.)

Utility Apparel (Nurses' Uniforms) (Manufacture and Supply) Order, 1949. (S.I. 1949 No. 1177.)

Water (Adaptation and Modification of the Local Government (Scotland) Act, 1947) (Scotland) Regulations, 1949. (S.I. 1949 No. 1205.)

Water (Form of Charging Order) (Scotland) Regulations, 1949. (S.I. 1949 No. 1215.)

Water Charging Order (Annuity) (Scotland) Regulations, 1949. (S.I. 1949 No. 1214.)

West African Territories (Air Transport) (Amendment) Order in Council, 1949. (S.I. 1949 No. 1234.)

Wey Valley Water (No. 2) Order, 1949. (S.I. 1949 No. 1209.)

Wild Birds Protection (Kingston upon Hull) Order, 1949. (S.I. 1949 No. 1213.)

NOTES AND NEWS

Honours and Appointments

The King has appointed Mr. N. P. D'ALBUQUERQUE, Barrister-at-Law, to be a Deputy Commissioner under the National Insurance (Industrial Injuries) Act, 1946, and under the National Insurance Act, 1946.

The King has re-appointed Mr. T. E. ARGILE a permanent member of the Transport Tribunal for a further period expiring on 30th September, 1949.

Mr. H. B. D. GRAZEBROOK, K.C., has been appointed a Commissioner of Assize on the North-Eastern Circuit.

Mr. P. DENNY, a partner in the firm of H. M. Dawson & Co., solicitors, of Bradford, has been appointed Clerk of the Peace for Bradford.

Mr. L. RANSON, solicitor, of Accrington, has been appointed Deputy Registrar of the Diocese of Blackburn and of the Consistory Court.

Personal Notes

Mr. Gwynne Davies, formerly Town Clerk of Loughborough, Leicestershire, has been presented with an inscribed silver tankard in appreciation of his services to Loughborough Chamber of Commerce.

Mr. W. Rawnsley, who has retired after thirty-seven years of county court service—twenty-three of them as Chief Clerk at Burnley—has been presented with a cheque for 100 guineas from the Burnley District Incorporated Law Society. A silver salver is the gift of past and present judges and the staff of the Burnley group of courts.

Miscellaneous

A comprehensive plan for the future development of the North-East of England, prepared by Sir George Pepler, C.B., P.P.T.P.I., F.R.I.C.S., and Mr. P. W. Macfarlane, M.T.P.I., F.R.I.C.S., at the instance of the Minister of Town and Country Planning, has now been made available to local authorities. The plan will later be published in book form.

The President, Sir Alan Gillett, the Vice-President, and the Council of The Law Society gave a dinner on 7th July, at their hall. Those who accepted invitations included: The Archbishop of Canterbury, Lord Greene, the Lord Chief Justice, the Master of the Rolls, Marshal of the Royal Air Force Lord Tedder, Lord Middleton, Lord Schuster, K.C., Mr. Justice Vaisey, Mr. Justice Harman, Mr. Justice Pearce, Sir Frank Soskice, K.C., M.P., Sir Albert Napier, K.C., Sir Malcolm Trustram Eve, K.C., Sir Thomas Sheepshanks, Judge Sir Gerald Hurst, K.C., Sir Gerald Dodson, Sir Reginald Whitty, Sir Eric Bamford, Sir Theobald Mathew, Mr. G. Russell Vick, K.C., Sir Tom Eastham, K.C., Mr. G. H. Curtis, the Master of the City of London Solicitors' Company, and the Master of the Cordwainers' Company.

The General Council of the Bar announces that an Extraordinary General Meeting of the Bar will be held on Monday, 25th July, at 4.30 p.m., in the New Hall, Lincoln's Inn. The Attorney-General will preside. This meeting is being held essentially on the question of the finance of the Council arising out of the motion passed at the annual general meeting of the Bar held on 25th April, 1949: "That this meeting, thinking it right that the Bar of England should possess a secretariat, executive and external relations organisation of a size and standing comparable to those of other professional bodies, desires the Council to formulate plans and consider financial proposals for setting up such an organisation and to report to an extraordinary meeting this day three months."

The Council will report that in order to carry out the purpose and meet the financial obligations arising from it subscriptions from the Bar should now be instituted. The Council believes that an additional regulation for this purpose should be made and the Attorney-General (Rt. Hon. Sir Hartley Shawcross, K.C., M.P.) will move and the Chairman of the Council (G. Russell Vick, K.C.) will second at the meeting the following resolution as an extraordinary resolution:—

"That the following new regulation, numbered 20A, be inserted after regulation 20.

20A. The Council is authorised to raise funds for its general purposes by subscriptions from practising members of the Bar of such amounts as the Council may think it necessary provided that, unless otherwise resolved by the Bar in General Meeting, such subscriptions shall not exceed the following annual rates: Juniors to fifth year from year of call, 1 guinea; Juniors from sixth to tenth year from year of call, 2 guineas; Juniors thereafter, 3 guineas; King's Counsel, 5 guineas.

The Council is also authorised to receive other contributions to its funds."

The Council has adopted the sum of £6,000 as the minimum required annually to enable it to give effect to the motion passed at the annual general meeting, and to obtain the extra £3,600 per annum has fixed the annual subscriptions as above.

Other matters may also be reviewed at the meeting.

PROCEEDINGS UNDER THE SOLICITORS ACTS, 1932 TO 1941

The Disciplinary Committee constituted under the Solicitors Acts made the following Orders on 1st July: That JOHN METCALFE, formerly of Tunbridge Wells, Kent, be struck off the Roll, and that he should pay to the applicant his costs of and incidental to the application and inquiry; and that BRYAN O'CONNOR, of 15 & 16 Railway Approach, London Bridge, be fined £300, forfeit to His Majesty, and that he should pay to the complainant his costs of and incidental to the application and inquiry.

[An Order of 30th June was made by the Committee that the application of GUY DARNLEY NAYLOR, of Cromwell Road, London, S.W., that his name might be removed from the Roll of Solicitors at his own instance on the ground that he is desirous of being admitted a student of the Honourable Society of Gray's Inn for the purpose of being called to the Bar, be acceded to.]

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